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# SYCOPHANCY IN ATHENS

A DISSERTATION

SUBMITTED TO THE FACULTY
OF THE GRADUATE SCHOOL OF ARTS AND LITERATURE
IN CANDIDACY FOR THE DEGREE OF
DOCTOR OF PHILOSOPHY

DEPARTMENT OF GREEK

BY
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## PREFACE

The investigation of this subject was suggested to me by Professor Robert J. Bonner, of the University of Chicago, while I was attending his course in the Private Orations of Demosthenes. To his advice and invaluable criticism the work owes the larger part of such value as it has.

J. O. L.

*The University of Texas*

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## TABLE OF CONTENTS

PAGE

INTRODUCTION ..... vii

CHAPTER I

THE DEVELOPMENT OF SYCOPHANCY ..... 1

Origin — Growth — Relation to Democracy and the Popular Courts — Prevalence.

CHAPTER II

THE ACTIVITIES AND METHODS OF SYCOPHANTS ..... 26

As Litigant — As Blackmailer — As an Agent — Clubs and Combinations of Sycophants — Sychophants and the Allies.

CHAPTER III

TYPICAL ATHENIAN SYCOPHANTS ..... 73

Agoratus — Callimachus — Aristogiton — Theocrines.

CHAPTER IV

CHECKS ON SYCOPHANCY ..... 86

Indirect — Fines and partial atimia — ἐπωβελία — Paragraphe.

Direct—γραφὴ συκοφαντίας—εἰσαγγλία—προβολή—Methods employed by the Thirty.

Inefficiency of all checks.

## INTRODUCTORY

The etymological meaning of συκοφαντεῖν has been the subject of speculation from the time of Plutarch to the present day. Plutarch's own explanation is that the exportation of figs from Athens was forbidden in early times. Those who reported violations of this law came to be called συκοφάνται.[1] The same explanation is found in several other comments on the meaning of the term.[2]

An entirely different etymology is also offered by the ancients. The people were once forced by a famine to steal the fruit from the Sacred Fig Trees. This was an act of great sacrilege. Those who reported the guilty received the name of συκοφάνται[3].

Modern efforts at reaching a satisfactory explanation are interesting.

Boeckh assumes that the term is equivalent to saying, "to make a φάσις of as little consequence as a fig." In other words, the term merely implies a groundless charge.[4]

Sittl explains it by comparing the term with the French *faire la figue* and the Italian *far la fica*. This was an obscene gesture employed by the Greeks. Originally, therefore, the term συκοφάντης meant ὑβριστής.[5]

More recent explanations are those offered by Reinach and Girard. They rival one another in ingeniousness.

The former[6] believes that the origin is similar to that of ἱεροφάντης. Corresponding to the ἱεροφάντης at Eleusis there was in charge of the Grove of Sacred Fig Trees at Cephisius a συκοφάντης. The cult of the Figs was of equal antiquity with that of Wheat at Eleusis. The "elevation" of the fig was *l'acte final* of this cult. An essential act of the Mysteries at Eleusis was the πρόρρησις made by the ἱεροφάντης. This probably led to delations by the initiates as well as to some by the Hierophant himself. The high office of this Priest kept this proclamation from being useless. But the συκοφάντης in charge of the

[1] *Solon* 24; *De Curiositate* 523.

[2] Athenaeus III, 74 E; Schol. Plato *Rep.* 340D; Schol. Ar. *Plutus* 873; Etym. Magn. s. v. συκοφαντία.

[3] Schol. Ar. *Plutus* 31; Suidas s. v.

Festus (p. 303 Müller) gives an explanation slightly different from this. He refers to no famine, but merely to theft of figs by young Athenians.

[4] *Staatsh. der Ath.* ed. Fränkel I, 56, note b.

[5] *Gebärden der Griechen und Römer*, 103, note 1.

[6] *Rev. des Etudes Grec.* Vol. 19, 342 ff.

worship connected with the Fig Cult had no such awe-inspiring position. His *πρόρρησις* would therefore seem of slight consequence and his delations insignificant. It was but a step from this to the use of the term *συκοφάντης* to indicate a troublesome or vexatious informer.

Girard[7] also accounts for the antiquity of the term by connecting the origin of its use with the theft of Sacred Figs. He assumes that the verbal part of *ἱεροφάντης* and *συκοφάντης* was originally passive in force. The former then meant "a sacred vision," the latter, *ὁ ἐν τῇ συκῇ ἀποφαινόμενος*, applying to one caught (*ἐπ' αὐτοφόρῳ*) in the act of stealing figs. This name would stick to the one so detected and tried. Next, the name was extended to those suspected of the theft of figs. Those who were suspected would turn about and call their accusers the same. In this way the term came to mean a calumniator and eventually it implied a groundless accusation.

An explanation that the student of the Orators and Aristophanes will feel more satisfactory than any other that has been suggested is that offered by Shadwell, in his commentary on Luke, 3:14.[8] His explanation depends on the frequent use of *σείειν* as practically a synonym of *συκοφαντεῖν*. "*σεῖσαι καὶ συκοφαντῆσαι* describes the operation of one who shakes fig trees in order to discover the fruit; for by his shaking the fig tree all the ripe figs are made to fall off. When these words are transferred to the business of an informer, *σείειν* means to agitate a man by threatening to inform against him and *συκοφάντειν* means to discover his money, i.e., to make him pay a large sum of money in order to escape from the vexation of a lawsuit. Thus a man's money is called his 'figs'; a rich man is said to be 'full of fruit'; one who bleeds easily is said to be 'ripe'; and to extort money from a man is called 'plucking his figs.' "[9]

It is in no sense the purpose of this discussion to add a new attempt at etymology or to express unqualified approval of any of those mentioned. Etymologizing may be interesting, but after all it can hardly throw much light on what the Athenian of the time of the orators meant when he used the term.

[7] *Ibid.*, Vol. 20, 143 ff.

[8] Quoted by Kennedy in his article on *Sycophant* in Smith's *Greek and Roman Antiquities*.

[9] Photius s. v. *σεῖσαι*; Aristophanes *Knights* 324, 259; Mein. *Fr. Comic* ii. p. 364, 1040 Fr. 20; Antiphon 6:43.

A satisfactory definition of the term is as elusive as the etymology. More or less epigrammatic descriptions are found in the orators. "For this it is to be a pettifogger (*συκοφάντης*)—to make all kinds of charges, and to prove nothing."[10] "Their business is to involve in accusation even those who have done no wrong, for from them they can make the greatest gains."[11] "By displaying their powers in the case of those who do no wrong, they get more money from those who are clearly guilty of crimes."[12] "I think that every one knows that those who are clever speakers, and without money, are especially the ones who try to bring vexatious charges against those who have no ability at speaking, but can pay well."[13]

Definition is difficult because the Greek writers themselves allowed such wide extension in the meaning of the term. In the words of Kennedy, "the term suggested a happy compound of common barretor, informer, pettifogger, busybody, rogue, liar and slanderer.[14] It included calumny and conspiracy, false accusation, malicious prosecution, threats of legal proceedings to extort money, and generally, all abuse of legal process for mischievous or fraudulent purposes."[15]

It was but natural that, as Aeschines says, the term came to be used for all scoundrels.[16] However, such extension in the use of the term has no part in this study.

The term *συκοφάντης* was applied, in the limited sense, to the unscrupulous and over litigious person who was ready to enter suit with no other motive than personal gain. It was then naturally extended to any one who collected blackmail by mere threats of a suit. Such a use made it apply equally well to the *μηνυτής*, who forced people to pay blackmail by threatening information (*μήνυσις*) with no intention of using the courts.

Non-litigious persons often needed assistance in managing their legal affairs. Such assistance they obtained from *λογογράφοι* and *συνήγοροι* and others skilled in such matters. Apart from the *λογογράφος* all assistance was supposed to be rendered on the basis of

[10] Dem. 57, 34.
[11] Lys. 25, 3.
[12] Isoc. 15, 24.
[13] Isoc. 21, 5.
[14] Smith, *Dictionary of Greek and Roman Antiquities* s. v. *Sycophant.*
[15] *Orations of Demosthenes* (Trans.), Vol. III, 344.
[16] 2. 99.

friendship or club membership. It was however impossible to enforce these restrictions. The hiring of witnesses as well as συνήγοροι grew to be a very usual thing. To such men the term συκοφάντης was readily applied. The general public would see little, if any, difference between men of this class and others who manipulated the courts for financial profit. Whatever distinction there was would be broken down also by the fact that, generally, men skilled in all forms of legal trickery would be the most desirable assistants.

Men of the type that could be hired to act as witnesses and advocates, would also be in demand for other kinds of work, more or less closely connected with the courts. The service that they rendered might, in some cases, be in no sense illegal or reprehensible. But the stamp of professionalism affixed to such agents, by their accepting pay for their services, tended to confuse them with the sycophant in the estimation of the public.

False witness, professional advocacy, information, blackmail, pettifoggery and general roguery were the things connoted by the term συκοφάντης.[17]

Handbooks and Dictionaries of Antiquity contain brief and often extremely satisfactory[18] discussions of the Sycophant. It is, of course, beyond their scope to make a special study of the matter. Such special study was attempted by DeVos.[19] His treatment is also brief[20] and differs from the discussions in the Handbooks mainly in that he gives more details concerning one or two well known sycophants.

His dissertation contains chapters on *Sycophanta in Foro, in Vita Familiari, in Vita Publica, inter Socios, Consociationes Sycophantarum, Sycophantae et Demagogi* and *Sycophantarum coercendorum rationes.* The chapter entitled *In Foro* is largely a paraphrase of the well known passages of the *Acharnians* dealing with the sycophants in the market. The next two are apparently intended to give an idea of the private and public life of the Sycophant. *In Vita Familiari*

[17] According to the fragment of Theopompus (107), Philip of Macedon considered false witnesses, perjurers, professional advocates and sycophants, as all alike candidates for his proposed City of Correction (πονηρόπολις). Vid. p. 94 for fuller statement of this. Cf. Xen. Mem. IV, 4, 11.

[18] Notably Kennedy's treatment already mentioned and Navarre's in *Dict. des Antiq.* (Darem. et Sag.). The latter's definition will bear quoting: "Délation, escroquerie et chantage, ces trois termes résument assez enactement, comme on le voit, l'industrie complexe du sycophante."

[19] *De Sycophantis.* Amsterdam, 1868.

[20] 75 pp.

includes a discussion of the attitude of Sycophants toward rich men, blackmail, Stephanus and his methods of extorting money from the patrons of Neaera, the private career of Aristogiton. *In Vita Publica* includes some statements on the use of δίκη and γραφή, and estimates of the amount of money that a sycophant might make by his trade. *Inter Socios* and *Consociationes* are very brief and do not make use of the available material to any great extent. *Sycophantae et Demagogi* is nothing more than an account of the numerous delations at the time of the excitement following the Mutilation of the Hermae. His last chapter is fairly complete and more satisfactory than the others.

Some of the conclusions and inferences of DeVos are erroneous. But in general the chief fault of the treatment is its incompleteness and inadequacy. He seems to be unfamiliar with some of the best examples and does not make adequate use of those with which he is evidently familiar. It is really a Handbook discussion with some details supplied. And even so it is questionable whether he supplies the details in the proper places.[21]

There is unquestionably a place for an investigation of this important feature of Athenian public life that shall be more complete and take into consideration the available material on the subject. That is the purpose of the present study.

[21] Navarre, in the article just mentioned, does not include this dissertation in his bibliography.

# CHAPTER I

## The Development of Sycophancy

### *Its Origin*

The lack of a state prosecutor in Athens put on the ordinary citizen the responsibility of prosecuting public as well as private[1] offenders. From the Athenian standpoint, no other system would have been "democratic." It was merely one of the ways in which each citizen helped to share the duties and responsibilities of the state. Solon is quoted by Plutarch[2] as believing that the best governed[3] state was the one in which those who were not wronged were no less diligent in prosecuting wrong-doers than those who had personally suffered. To realize this condition he introduced into the Athenian constitution the provision that any citizen might claim legal satisfaction on behalf of anyone who was wronged. "*τὸ ἐξεῖναι τῷ βουλομένῳ τιμω [ρεῖν] ὑπὲρ τῶν ἀδικουμένων.*"[4] This provision was always regarded as one of the cornerstones of Athenian democracy.[5] The Athenians were fond of expressing their approval of the men who were vigilant in public activity and who took advantage of the opportunity to bring offenders to justice. Pericles states that they considered the one who refrained from participation in matters of public interest not inactive (*ἀπράγμων*), but useless (*ἀχρεῖος*).[6] Prosecutors often emphasize the important part that such vigilant citizens play in the state. "I consider it the duty of a good citizen to undergo dangers for the democracy and not to keep quiet about public matters from fear of incurring personal enmity."[7] "It is the part of a good citizen to consider those that are guilty of some illegality against the state as personal enemies."[8] "Of the three important things that preserve the democracy and the state, the greatest is '*ἡ τούτοις* (the judges) *τ' ἀδικήματα παραδιδοῦσα κρίσις*'."[9]

Plato, a great critic of Athenian democracy, in the *Laws* provides for the punishment of public offenders by methods like the

[1] Private cases (*δίκαι*) would of course necessarily originate with the person directly affected.

[2] Plut. *Sol.* 18. Cf. DeVos 3-4

[3] *κάλλιστα οἰκεῖται.*

[4] Arist. *Const. of Ath.* 9. 1; Plut. *Solon* 18.

[5] Arist. *Const. of Ath.* 9.1.

[6] Thuc. II, 40.

[7] (And.) 4, 1.

[8] Lyc. *c. Leocr.* 6.

[9] *Ibid.* 4.

Athenian in most essentials. "Such causes (public) ought to originate with the people and they ought to have the final decision of them."[10] "For all are injured when someone injures the state."[11] "Worthy of honor, too, is he who does no injustice, and of more than two-fold honor if he not only does no injustice himself, but hinders others from doing any; the first may count as one man, the second is worth many men, because he informs the rulers of the injustice of others."[12]

It came to be very customary for prosecutors to attempt to gain favor with the jurors by representing their suits as great benefits to the state. "Since I saw that the city was being greatly harmed, I thought it was one of the most shameful things not to go to the aid of the whole state and the laws and you and myself."[13] "In aid of my native land and the temples and the laws I have brought this suit as a citizen should, rightly and justly."[14]

But this encouragement of citizens to prosecute public offenders resulted in a serious abuse of the courts. Prosecutors who had only personal motives could take advantage of the freedom in bringing γραφαί as easily as those who were in reality public-spirited. Herein sycophancy had its origin. The situation offered an unscrupulous person excellent opportunities to use the courts as a means of profit, under cover of benefitting the state. This is vividly brought out in the *Plutus*[15] in the dialogue between Chremylus and the Sycophant. The latter has come to lament the fate that is his, now that the god Plutus has received his sight. The just are prospering and the unjust are reduced to poverty.

*Syc.* Alas! What misery it is that I, good and patriotic citizen that I am, should be so mistreated!

*Chrem.* *You* patriotic and good?

*Syc.* As never man was.

*Chrem.* Well, tell me—

*Syc.* Tell you what?

*Chrem.* Are you an honest tiller of the soil?

[10] 768 A. (Jowett)

[11] *Ibid.* 768 A.

[12] *Ibid.* 730 D.

[13] Aesch. I, 1-2.

[14] Lyc. *c. Leoc.* 149, ἀποδίδωκα τὸν ἀγῶνα. The significance of the prefix ἀπό is to be noted. He has done his duty to the state.

[15] Ar. *Plutus* 900 ff.

*Syc.* What do you take me for?

*Chrem.* Or a merchant?

*Syc.* Oh yes. I pretend to be when it suits my purpose.

*Chrem.* Well then. Do you know any trade?

*Syc.* No, by Jove.

*Chrem.* But how and from what source did you make your living before this, if you don't do anything?

*Syc.* I am manager of all affairs of state and private affairs too.[16]

*Chrem.* You! Why under the sun do you do that?

*Syc.* I want to.

*Chrem.* How can you be good, you house-breaker, if you make yourself an object of hatred by meddling in things that in no way concern you?

*Syc.* What? Is it not my concern, you booby, to help my city as far as I can?

*Chrem.* Then do you call being a busy-body helping your city?

*Syc.* It isn't that at all. It is aiding the established laws and if any one does wrong, not to let it pass.[17]

*Chrem.* But doesn't the state appoint judges for just that purpose?[18]

*Syc.* But who is the accuser?

*Chrem.* Any one who pleases (*ὁ βουλόμενος*).[19]

*Syc.* Well that's who I am. So that the affairs[20] of the state now rest on my shoulders.

It is clear that the sycophant as well as the legitimate prosecutor would be anxious to have the reputation that the one in the *Plutus* claims. It was to his interest also to show that he aided the state and that on him "rested the welfare of his native land."

This passage from the *Plutus* shows how difficult it is to draw the line of demarcation between the public-spirited, personally disinterested prosecutor and the sycophant. An excellent opportunity

[16] *πράγματα* suggests the familiar pun on the word in its double meaning of affairs and law-suits.

[17] 914–915. *βοηθεῖν τοῖς νόμοις . . . . καὶ μὴ 'πιτρέπειν, ἐάν τις ἁμαρτάνῃ.* cf. Aesch. 1; 1. *βοηθῆναι . . . τοῖς νόμοις* κ.τ.λ. and Plato *Laws* 730 D *μηδ' ἐπιτρέπωμεν τοῖς ἀδικοῦσιν ἀδικεῖν* quoted above.

[18] This recalls the words of the orator Lycurgus when he refers to the accuser as the most important of the three things that save the state. (*c. Leoc.* 4).

[19] The identification of the sycophant with *ὁ βουλόμενος* shows us the effect of the *τῷ βουλομένῳ* of Solon's legislation.

[20] Once more the pun on *πράγματα.*

for comparing the two types of prosecutors is found in the speech of Antiphon *On the Choir Boy*. Such speeches are of course *ex parte* and represent the situation in the light most favorable to the speaker. The real facts of the case may therefore be distorted. But the value of the speeches for the present purpose is not impaired for this reason. For it is of little interest, after all, whether an individual speaker misrepresents the situation or not. On the contrary his statements are in fact very illuminating. It would be unthinkable that he ascribed to himself, or accused others of, motives that were unheard of by the Athenians. In fact, it would be to his interest to represent himself as acting in a natural way, and to accuse his opponent of something reasonably common in Athens. A review of the case will show the difference between the conscientious prosecutor and the sycophant.

The speaker is a wealthy Athenian who had brought an eisangelia before the Boulê against certain officials for theft of public funds. The senate had accepted the eisangelia and handed the case over to the court of the Thesmothetae for trial. After he had brought the eisangelia, and just as he was preparing to prosecute the officials in the court, he was elected to the office of Choregus. Since he was anxious to prosecute the case, he procured some efficient men to take care of the chorus he had collected, and turned the training over to them. Before the trial of the officials, Diodotus, one of the boys in the chorus, died. It was said that his death was due to a draught that had been given him for his voice.[21] The relatives of the boy did not at first take any action against the choregus or any of his assistants. In fact, for two days after the boy's death they talked with him and treated him in such a way that it was evident that they did not hold him responsible.[22] But on the third day, the day on which the boy was buried, this attitude suddenly changed. This was the day preceding the one set for the trial of the first of the eisangelia cases in which the choregus was the prosecutor. On this day Philocrates, the brother of the dead boy, appeared in the court of the Thesmothetae and announced that the choregus had forced the boy to drink the drug and was responsible for the death.[23] This same court was to sit the next day on the first of the cases.[24] Philocrates

[21] Ant. 6. 12–16.
[22] *Ibid.* 34.
[23] *Ibid.* 21; 34; 37.
[24] *Ibid.* 21-23. The jurors sat in the same court day after day at this date. Cf. Lipsius *Das Attische Recht* (*A.R.*) 137-138.

had been bribed by the accused officials to make this announcement and to start the prosecution of the choregus.[25] The latter was the only one fully acquainted with their pilfering and if they could get him out of the way so that he could not appear and accuse them, they hoped to go free.[26] This accusation made by Philocrates before the court that was to try the cases, right on the eve of the trial, was calculated to prejudice the jurors.[27] Furthermore, if the Basileus would enter the case for trial the choregus would certainly be prohibited from public places and would be unable to appear against them. It is clear that the evidence against them was so strong that they had no hopes of acquittal if the prosecutor appeared.[27] As soon as Philocrates had made this accusation in the court of the Thesmothetae, the choregus arose and denounced him because he had taken this informal and illegal way of accusing him before the jurors. He made it clear to the court why it was that Philocrates had done this, and at whose instigation. Then he turned to Philocrates and challenged him to examine any of those who were acquainted with the facts of the death, slave and free. The challenge was not accepted.[28]

After his sensational appearance in the court room Philocrates went to the Basileus to get the case entered on the calendar.[29] But the term of office of the Basileus was so nearly over that he was prevented by law from entering the case.[30] No proclamation prohibiting the choregus from the public places was made. The explanation that he had offered of the reasons for the denunciation that Philocrates had made probably satisfied the jurors, for the choregus carried the cases of the officials into court as he had planned; and although Philocrates assisted the defendants and made much of the death of the choir boy, they were convicted and fined.[31]

After this the relatives of the dead boy did not, as one might expect, bring the matter of his death before the new Basileus who would have no technical reasons for refusing the case, but they let the matter drop. They were very anxious to be reconciled to the

[25] *Ibid.* 21; 34-36.
[26] *Ibid.* 21; 36.
[27] 36-37.
[28] 21.
[29] 38.
[30] 38; 42.
[31] That Philocrates and others assisted the officials is clear from the language. "*καὶ οὗτοι ὧν ἕνεκα ἐλάμβανον χρήματα οὐδὲν αὐτοῖς οἷοί τε ἦσαν ὠφελῆσαι.*" (38)

choregus and let by-gones be by-gones. At the requests of friends he accepted their offers of reconciliation. For nearly five months these apparently friendly relations existed between the choregus and the relatives of the dead boy. Philocrates himself was especially anxious to show his good will toward him.[32] Then without any warning the relatives, headed by Philocrates, again accused the choregus of the death of the boy. This time the new Basileus entered the case and the choregus was proclaimed as polluted and was prohibited from coming into public places.[33] He was then brought to trial and the present speech was delivered.[34]

This second accusation, as well as the first was "trumped up." Philocrates and those who assisted him were professional accusers or sycophants.[35] He was not concerned in the prosecution of the one responsible for his brother's death.[36] When someone was ready to pay him to accuse he accused; when there was no one ready with the money he tried to be on friendly terms with the man whom he now accused.[37] This time he had received a "retainer fee" of thirty minae from a second set of officials that the choregus had begun to prosecute.[38] To account for the failure of his first effort at prosecuting him, Philocrates had stated that the former Basileus was partial to the choregus. The latter shows that this could not be the true explanation: the Basileus had had good reasons for refusing to accept the case; if Philocrates had felt that he had any chance of proving anything against the Basileus he would have appeared at the euthynae and accused him, or in fact merely threatened him with accusation, for his regular business was to levy blackmail upon officials on such occasions.[39]

Both of these men are active citizens. Each one seems to have devoted his efforts to attacks on officials. But if we accept the version of the choregus, as indeed we must, the difference between the two is vast. It lies in their motives. The choregus is a type of the ideal citizen. He performed his choregic liturgy to the best of his

[32] 38-39.

[33] 42, 49.

[34] 16. For theories on the form of accusation see Lipsius *A. R.* 125. Cf. Jebb, *Att. Or.* Vol. I, 62.

[35] 43, 48.

[36] 44-45.

[37] 48.

[38] 49.

[39] 43. *ἴσως καὶ ἐσυκοφάντει.* The expressive word *σείω* recalls our "shake down."

ability. He did not let his wealth keep him from participation in matters of public welfare. In the interest of the state he prosecuted at least two sets of officials. For these efforts his only compensation was the satisfaction of correcting flagrant wrongs.

Philocrates on the other hand had no such motives for his activities in the courts. Instead of bringing to justice the wrong doers by prosecutions, he made a business of extorting money from officials by threatening them with prosecutions when they were to render account of their office. "Falsely accusing magistrates and accepting hush-money" can only mean blackmail. There is no indication that he was sufficiently interested in establishing justice to carry through a trial against officials who deserved punishment. No doubt the only motive that he would have for doing that, would be the desire to gain a reputation that would make him dreaded and therefore render his threats more fruitful of gain. He even allowed himself to be used as a hireling for the prosecution of the choregus. The very fact that he was chosen by the accused officials as a suitable tool shows that he was well known as a sycophant.

Such a man as Philocrates might of course indirectly be the source of some good to the state. Many might be kept from wrongdoing by the fear that these men engendered, and offenders might sometimes be brought to account by their prosecutions. In fact, the Athenians were in a sense reconciled to the sycophant as an inevitable nuisance. But the evil of sycophancy lay in the fact that it offered an unscrupulous individual the opportunity of preying on honest men by threats of accusation and blackmail. The sycophant was not concerned in anything but his own financial interest and must have been the cause of more harm than good. This naturally made "informers" an object of hatred even in Athens.

### *The Growth of Sycophancy*

It is evident that the origin of sycophancy is to be found in the lack of a publicly-appointed prosecutor and in the freedom with which γραφαί could be brought. But it could not have been a serious evil until the supremacy of the popular courts was assured[40] under the full democracy that followed the period of the Persian Wars.

[40] Cf. the development of sycophancy in Sicily after the overthrow of the tyrants and the establishment of democracies (Diod. XI, 87, 5.). The idea is well worded by the chorus of jurors in Ar. *Wasps* 1091; 1094-7 οὐ γὰρ ἦν . . . οὐδὲ συκοφαντήσειν τινὰ φροντίς.

These courts had their beginning in the Solonian constitution. Appeals from the judgment of magistrates whose decision heretofore had been final were allowed to be brought before a δικαστήριον to which all citizens were eligible.[41] The natural result of this was that the decisions of magistrates came to be considered of very slight importance. And in the course of time the popular body received the right to try cases first and finally. The process that led to this was no doubt very gradual. It is natural to connect the last step with the reforms of Cleisthenes, who, even in antiquity, was regarded as the real founder of Athenian democracy.[42] It is hardly likely that any complete use was made of these courts until after the long struggle that terminated in the complete overthrow of the power of the Areopagus.[43] But as Aristotle says "when the Demus became master of the ψῆφος, it was master of the state."[44] When one considers the various things that came under the supervision of the courts, it becomes clear how true this was. Many other duties besides the ordinary public and private suits helped to increase their importance. They were called upon to decide the question of the legality of laws and decrees. Eisangeliae which were brought before the ecclesia or Boulê might be transferred to the courts for trial. The courts exercised final jurisdiction in the matter of dokimasiae and euthynae and, consequently, magistrates were under their control.[45] The development of the Athenian empire also added to

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DeVos (p. 4) implies that in early times abuses of the provision were met *variis modis*. What these were he does not state. It is improbable that any were needed. Abuses could hardly have amounted to much until after the Persian Wars.

[41] Arist. *Const. of Athens*. 7.3; Plut. *Solon* 18; Arist. *Polit.* 1274 A. Lipsius *A. R.* 28 ff. It is a matter of dispute whether Solon at once divided the body of jurors into sections. Aristotle's language is ambiguous, 7, 3 δικαστηρίων, 9, 2 δικαστήριον. It is more probable that the whole body of Athenians acted as a jury at first and that as such the term δικαστήριον or Ἡλιαία (Lys. 10, 16) was applied to them, to distinguish this function from their duties as legislators. Cf. Gilbert *Const. Antiquit.* (Eng.) 393, De Sanctis, *Storia della Republica Atheniese*, p. 250. Keil, *Einleitung in die Altertümswissenschaft*, III, 362 (1st ed.). Bonner, *Cl. Phil.* VIII, 2.

[42] Lipsius, *A. R.* 32-33; Aristot. *Const. Athens*. 24, 3.

[43] *Const. of Athens* 23-24. Lipsius *A. R.* 34.

[44] *Ibid.* 9.1; Plut. *Solon* 18.

[45] It is natural to regard the right to examine officials as originally belonging to the Areopagus. Cf. *Const. of Athens*. 8. 2. Lipsius (*A. R.* 37) suggests that the conduct of these two examinations was given to the courts (dicasteries) about

their prestige. Many of the law suits of the subject states could be tried only at Athens.[46] The great commercial development of the city entailed an immense amount of litigation. The congestion of business of all kinds in Athens at this period is well described in the Xenophontic Politeia. "A man could not get his business attended to even if he stayed in the city a year. And no wonder. No state ever had so many things to manage. Festivals more in number than any other Greek state had; matters of war, finance, legislation, taxes, shipyards, temples. Then the business of the courts. Innumerable *δίκαι, γραφαί, εὔθυναι, δοκιμασίαι, διαδικασίαι.* More than all the other states together could settle."[47] "You Athenians do nothing but try cases," says Trygaeus in the *Peace.*[48] And the exaggeration is but slight. Litigation was the distinguishing mark of Athens. Strepsiades in the *Clouds* refuses to believe that a certain place on the map is Athens because "he sees no law courts sitting."[49]

This situation rendered pay for jurors necessary. It was impossible to find enough judges ready to attend the courts day after day without compensation. Pay for the service made it possible for the poorer and more undesirable to act as jurors. The result was that the courts grew to be gatherings of the idle and less competent who enjoyed the flattering respect of the litigants and the sense of importance that their authority gave them.[50] The *ψῆφος* of the juror was the mightiest thing in the state[51] and the members of the dicasteries could truthfully say with Philocleon "We are lords of all."[52] Jurors of this sort were only too ready to encourage litigation. They depended upon it for their income.

In such a soil the business of the sycophant grew apace. The *εὔθυναι, δοκιμασίαι, εἰσαγγελίαι* and *γραφαὶ παρανόμων* offered as good chances

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the time of Ephialtes and Pericles. For a fuller statement in regard to the courts and these examinations of officials, see pp. 43 ff. The matter is discussed, with the various views by Lipsius, *A. R.* 269 ff.; Gilbert, *Const. Antiquit.* 218 ff. (Eng.). Vid. Arist. *Const. Athens* 45, 3; 55, 2.

[46] (Xen.) *Pol. Ath.* 1. 16; Busolt, *Griechische Geschichte* III, 1, 230.

[47] *Ibid.* III, 1-6.

[48] Ar. *Peace* 505.

[49] Ar. *Clouds* 207-208.

[50] Arist. *Const. of Athens* 27, 3; *Politics*, 1274 a 8; Plut. *Per.* 9; Plato *Gorgias* 515 E; cf. Bury *Hist. of Greece* 349. Isoc. 8, 130. "Those who live on their fees as jurors are grateful for the numerous trials."

[51] Lysias 1, 36; Dem. 21, 223.

[52] Ar. *Wasps* 517.

for blackmail as the ordinary γραφαί. This was especially true of the first two. The case of the Choregus shows what excellent chances there were for activity in the prosecution of officials.

Sycophancy was the inevitable disease of democracy. In the words of Plutarch "not only as Simonides says 'on every lark must grow a crest' but also in every democracy there must spring up a false accuser."[53] Of no community could this be more true than of litigious Athens, where the chances of perverting justice were so numerous because of the character of the courts, the very bodies that were intended to maintain justice.

### *The Character of the Popular Courts*

The organization of, and procedure in, the popular courts were largely responsible for the ease with which the sycophant plied his trade, and consequently for the great prevalence of the evil. For this reason it seems well to study the character of these courts in some detail at this point.

One cannot keep too constantly in mind the fact that the Athenian dicasteries were really popular mass meetings in character and not austere judicial bodies. "In Athens cases are tried "ἐν τῷ δήμῳ," says the writer of the Xenophontic Politeia."[1] This is practically true. The ecclesia was the meeting of the sovereign people for deliberative and legislative purposes. In the δικαστήριον the same sovereign people exercised judicial powers through their representatives the δικασταί.[2]

This representative nature of the courts is indicated in various ways.

(1) By the form of address that litigants often used: ὦ Ἀθηναῖοι, ὦ ἄνδρες Ἀθηναῖοι.

(2) Speakers repeatedly identify the jurors with the whole people. "To enforce these obligations (state services) *you* empanel

[53] Plut. *Timol.* 37. DeVos (p. 27) and Navarre (in Daremberg and Saglio, *Dict. des Ant.* s. v. Sycophante) understand the statement of Plutarch to mean that Simonides made the comparison between the tufted lark and its crest, and Democracy and its sycophant. Bergk (Fr. 68) assigns to Simonides merely the statement about the lark. The language of the passage in Plutarch is in favor of Bergk's view, and surely Simonides would have little occasion to mention the evil of Sycophancy.

[1] I. 18.

[2] De Sanctis, *op. cit.*, p. 250 Keil, *op. cit.* III, 362.

juries (δικαστήρια πληροῦτε) and pass sentence of imprisonment upon the refractory," is the statement of Diodorus in *Diodorus et Euctemon vs. Timocrates.*[3] He is addressing a court, but as the Greek words indicate, he regards them as a representative gathering of the whole people.

(3) An action taken by an ecclesia is often referred to as the action of the jurors whom the litigant is addressing. "When you heard this you handed Dioclides over to a court and put him to death," says Andocides to the jurors in the *Mysteries.*[4] The action of the ecclesia, to which he refers, took place fifteen years before. But this does not prevent the identification of the jurors and the ecclesiasts. Whether the jurors addressed were really present at the meeting of the ecclesia which the speaker has in mind was a matter of no moment.

This passage from Andocides shows that the courts were in effect committees of the ecclesia, by means of which the people expressed their will in matters that needed judicial action.[5]

(4) The δικασταί were subject to no δοκιμασία or εὔθυναι. "καὶ ταυτ' ἀνυπεύθυνοι δρῶμεν· τῶν δ' ἄλλων οὐδεμί' ἀρχή."[6] They were not at all magistrates in the usual sense of the term.

There was no examination to determine the jurors' fitness to serve. They were elected by lot from the whole body of citizens and the only requirement was that they be thirty years of age or more. None of the things that in our estimation disqualify a man from acting as a juror prevented an Athenian from serving.[7]

He might know all about the case beforehand.[8] In fact he might come to the court with his mind made up as to the question of guilt or innocence.[9] He might even be a friend or enemy of either of the litigants and might have indicated his attitude[10] on the question at

[3] Dem. 24, 92.

[4] And. I, 66. Cf. Aesch. I, 82, 85. Dem. 20, 53, 78; 23, 65.

[5] "An Athenian Court was the nation in miniature," Wyse, notes on Isaeus IV, 17, 5.

[6] Ar. *Wasps* 587.

[7] Cf. Bonner, *Evidence in Athenian Courts*, chap. XVII.

[8] (Dem.) 40, 9, 11.

[9] Lys. 6, 54.

[10] Aesch. I, 44; Dem. 21, 4, 226. In the case of a trial resulting from a Probole this was more natural.

issue. Apparently the most desirable juror was the one most familiar with the case.[11]

During the progress of the case the jurors often expressed their approval or disapproval. Appeals for fair hearing were frequent.[12] The plaintiff in *Apollodorus vs. Stephanus* relates how on one occasion the jurors were so inflamed against him by his opponent's speech, that they drove him from the court without listening to him.[13] This is probably not a typical case. But the disorder among the jurors was pronounced enough to warrant frequent requests of μὴ θορυβεῖτε.[14] Plato compares the hooting and clapping of the hands in the courts to the behavior of an audience in a theater.[15] Under such circumstances the litigants naturally interrupted one another with noisy questions and protests.[16]

To check this turbulent mass meeting was not in the power of the presiding officer. Neither did he have the authority to force a speaker to confine his remarks to the main issue. The result was that a startling amount of all kinds of irrelevant matter was brought into nearly every case. It is true that "a jury could and did freely express its disapproval of the argument used by a speaker or bade him stick to the question at hand."[17] In fact the Heliastic oath provided that the juror vote on the matter at issue.[18] It is not uncommon to find apologies for digressions[19] or assurances that the arguments that appear to be digressions are not really foreign to the subject.[20] But the only real restraint on the evidence that was brought into a case was the fear of exciting the resentment of the jurors.[21]

[11] Demosthenes regrets that jurors who are to judge the matter over which he is in dispute with his guardians are not familiar with the case (27.1). Plato in the *Laws* (937A) advises that the juror who is familiar with a case should become a witness and not vote as a juror. This is in accord with his other criticisms of the Athenian court system.

[12] Dem. 23, 1-5; 45, 1.

[13] Dem. 45, 6.

[14] Lyc. *c. Leoc.* 52; Hyp. *Lycoph.* Frag. II; Plat. *Apol.* 20 DE; Xen. *Apol.* 14.

[15] Laws 876 B.

[16] (Dem.) 40, 61; (25, 19) Plato *Apol.* 27 B; Aeschines (I, 84.) compares the noise and uproar with the behavior before the Areopagus, where even laughter is not permitted.

[17] Ant. 5, 90; 5, 8; cf. Bonner, *Evidence*, Chap. II, p. 16.

[18] Dem. 24, 151.

[19] (Dem.) 40, 50, 57, 59, 63.

[20] Lyc. *c. Leoc.* 46.

[21] Cf. Bonner, *Evidence* p. 15.

The irrelevant matters were of many kinds. A man's whole life was open to review.[22] The attack on a man's life might be put in general but exceedingly effective terms. "I cannot tell all his bad points since I have not the time."[23] "His vile deeds are not fit for utterance."[24] "One cannot live in the same house with men of his class."[25]

Or else it might be very specific and deal with his moral character, political career or personal peculiarities.[26] Nor did a man's relatives or friends escape calumny.[27] Even the witnesses or advocates of the opponent received their share of the abuse.[28]

Defamation of opponents is naturally accompanied by a recital of the reasons why the speaker should receive the jurors' favorable consideration. The good qualities, political record, patriotic temper, services to the state, of the speaker or his relatives dead or living were rehearsed. Reference to good deeds had come to be regarded as necessary.[29] Some litigants, in addressing the jurors refer to their faithful performance of certain duties and say "In fact I spent more than I was asked in order that I might stand higher in your esteem and, if I ever became involved in a lawsuit, might have more success in my suit."[30] Even advocates (*συνήγοροι*) mentioned their services to the state as reasons for obtaining the acquittal of their "clients."[31]

Like all popular gatherings the jurors were easily swayed by appeals of various kinds.[32] They were especially susceptible to those that touched on their prejudices in favor of democracy.[33] It became common therefore for speakers to represent themselves,[34] their ances-

[22] Dem. 23, 20; 32, 27. Aesch. 1, 196.

[23] (Dem.) 40, 38.

[24] Aesch. I, 55.

[25] Dem. 39, 57; 36, 8; 25, 32; 20, 13; Aesch. I, 58; (Dem.) 40, 5.

[26] Dem. 45, 63-65; 37, 33, 37-8; 36, 44-45; 39, 16-17; 24, 159; 25, 56-58; And. I, 124. Such things as fast walking, loud talking, unattractive appearance, carrying a cane (Dem. 37, 52; 45, 77), were included in the accusations. On some matters the Athenian massmeeting was more sensitive than the modern.

[27] Ant. 5, 79; Dem. 39, 27; 25, 55, 79-80; 24, 200-201; Hyp. IV, 31, 32.

[28] Aesch. I, 55-56, 167, 170; Dem. 45, 47; 24, 136-7; (40, 58 ff.); Lys. 12, 62 ff.

[29] Dem. 20, 76; 21, 154; 24, 127; 34, 38; 36, 36-42; 45, 85; 38, 25; And. I, 106.

[30] Lys. 16, 17; 25, 13; Dem. 25, 76.

[31] Lyc. *c. Leoc.* 139.

[32] Cf. Plato *Euthyd.* 290 A *κήλησις . . . δικαστῶν.*

[33] And. I, 4.

[34] Lys. 16, 12; Ar. *Wasps* 282-83.

tors,[35] or the witnesses[36] they furnished, as partisans of the demus and belonging to *τὸ ὑμέτερον πλῆθος*. It was equally natural to picture the opponents as hating democracy,[37] oligarchic in tastes and sentiments,[38] or even to compare them with tyrants.[39] Since opposition to democracy was synonymous with opposition to the popular courts, it is easy to see what effect such insinuations had on the temper of the jurors.[40]

Flattery and complimentary remarks about the jurors were exceedingly customary. They were reminded of the glory of the men from whom they are descended;[41] called "guardians of the laws and the constitution;"[42] they "know how to curb even the most clever men";[43] "such powerful men it is an advantage to have as assistants and friends";[44] "their fairness and justice" are admirable.[45] When mistakes of the jurors must be mentioned they were explained, most often, as resulting from "deception."[46]

Appeals to the prejudice and passion of the jurors were common. Defendants are said to put themselves above the laws of the state;[47] to be trying to rescind what a dicastery once decided;[48] to be insulting the ecclesia and the courts.[49] Or the jurors are warned that their powers are in danger;[50] that they have a villain at their mercy;[51] that god has endeavored to give them "a chance at" the wrong-

[35] And. I, 106.
[36] Dem. 21, 96; Plato *Apol.* 21 A.
[37] Ar. *Wasps* 474-5. Lys. 25, 7.
[38] Dem. 24, 57, 76, 78, 87, 90, 154, 164.
[39] Cf. Ar. *Wasps* 488 ff. And. I, 101.
[40] Ar. *Wasps* 411 ff.; 474.
[41] Lyc. *c. Leoc.* 127, cf. 119, 110.
[42] Dem. 24, 2, 37; 21, 92, 224-25.
[43] Dem. 39, 14; Hyp. III, 23; Ar. *Wasps* 258.
[44] Dem. 45, 85; Ant. I, 22.
[45] And. I, 9, 91; Dem. 32, 21-23; Hyp. IV, 33 ff., 36, 38.
[46] Dem. 21, 160; 20, 98; 22, 46; (40, 55); Plato *Laws* 938 B; Lyc. *c. Leoc.* 79, 139; Ar. *Knights* 1345; Aesch. I, 93, 117; Dem. 22, 96-97; Cf. Ar. *Wasps* 900 ff., where Philocleon says of the dog that is to be tried "*ἐξαπατήσειν μ' οἴεται.*"
[47] Dem. 35, 54.
[48] *Ibid.* 24, 73.
[49] *Ibid.* 21, 193, 197 ff.
[50] *Ibid.* 24, 2.
[51] Lyc. *c. Leoc.* 91. Dem. 24. 205.

doer;[52] that they have been wronged and now have an opportunity for vengeance.[53]

The ordinary *δικασταί* whose main source of income[54] was the *τριώβολον* could not fail to be aroused by appeals that touched their prejudice against rich men.[55] Litigants therefore found it to their interest to represent their opponents as wealthy and themselves as suffering from poverty or at least in moderate circumstances.[56] When men who were undoubtedly wealthy were on trial the plaintiffs often argued that conviction was the jurors' advantage. One man complains of the disadvantage under which he labors in being compelled to defend himself at a time when state funds are low.[57]

Direct requests for pity were so common that the failure to beg for the jurors' compassion was regarded as a sign of antagonism towards the popular courts and their methods.[58] Defendants even wept before the court.[59] Hardened criminals were said to be able to shed tears in court when occasion demanded.[60] Introduction of women and children to move the jurors to pity by their pleas and tears was common.[61] Even the advocates were expected to plead for compassion toward their "clients."[62]

One is not justified in concluding that this situation rendered all trials unfair or all decisions unjust. But these irrelevant matters made it extremely difficult for the average juror to base his verdict on the real issue as his oath required him to do. In the words of the Xenophontic Socrates "Do you not see that the Athenian dicasteries frequently become enraged and put innocent men to death and frequently acquit those guilty of wrong, moved to pity by their pleas

[52] Dem. 56, 47; Lyc. *c. Leoc.* 134.

[53] Dem. 24, 90; 20, 34; 21, 7-8, 66, 209 ff.; 23, 100; 35, 56.

[54] Isoc. 8.130, cf. 7.54.

[55] Isoc. 15, 160.

[56] Lyc. *c. Leoc.* 150; Dem. 36, 58; 45, 66 ff.; Hyp. III, 32, 35; Dem. 21, 209; 27, 53; Dem. 20, 24; Ar. *Knights* 1360, *Wasps* 287 ff.; 627-28.

[57] Lys. 19, 11. Cf. Ibid. 28, 3.

[58] Plato *Apol.* 34 C-E.

[59] For instances in which the speakers begged for pity vid. Lyc. *c. Leoc.* 150; And. 2, 6-7; Ar. *Wasps* 556, 564, 967-977; Dem. 21, 213; 38, 19-21; 27, 68.

[60] Dem. 39, 35; 38, 27. "Even rascals like Pantaenetus will weep and lament" (Dem. 37, 48.).

[61] Dem. 21, 99, 186; 25, 83-84; Plato *Laws* 949 A; Ar. *Wasps* 568 ff.; cf. Plato *Apology* supra. Aristophanes ridicules this habit very effectively in the *Wasps* (976) by representing the whelps of the dog that is on trial whining and begging for his life.

[62] Dem. 21, 83; Lyc. *c. Leoc.* 135; Dem. 36, 57; Dem. 37.48.

or by their eloquent speeches?"[63] And in the Platonic *Apology* Socrates assures the jurors that not Meletus or Anytus will convict him if he is convicted, but the envy and slander of the many. That which has convicted many other good men will not fail to convict many others. There is no danger that it will stop in his case.[64]

Criticisms of the courts by contemporary writers were not unusual. Plato advocates that the popular courts be given jurisdiction over matters of very slight importance.[65] He suggests a remedy for the evils of the Athenian system by proposing the organization of a "supreme court" the members of which should be subject to dokimasia and liable for trial if accusation of unjust decision is brought against them.[66] This might have been an effective remedy. As it was the jurors were sovereigns and subject to no dokimasia or euthynae as magistrates were.

Isocrates in the *Antidosis* quotes at length the opinion of a pessimistic friend who had tried to dissuade him from a recital of his good deeds before the jurors. "Some of them are so savage because of their envy and poverty, and are so peevishly disposed that they object not to villany but to a good career, and hate not only the most moderate citizens but the best pursuits. This is bad enough. But they even join the side of wrong-doers who are on trial and pardon them while they put to death those whom they envy, if they can."[67] This is no doubt overdrawn, but the whole Antidosis is full of criticisms that are less exaggerated.

The undue appeals to the passions that are made in the courts are criticised by Aristotle. "For it is not right that an orator should bias the judge by winning him on to anger or pity or jealousy; since that is as absurd as it would be to make a ruler, that one expected to use, crooked."[68]

The writer of the Xenophontic Politeia characterizes the Athenians in the courts as "concerned in what is just no more than in what is advantageous to them."[69]

Even the orators give expression to direct criticisms, especially on the use of irrelevant matter. The popular courts are compared

[63] Xen. *Apology* 4.
[64] 28 A.
[65] *Laws* 876 AB.
[66] *Ibid.* 767 C-E.
[67] 15, 142.
[68] *Rhet.* 1.
[69] I, 14.

with the Areopagus where even laughter is not permitted and where the chances of wandering from the main subject were comparatively slight.[70] "Neither should a man's good deeds save him from condemnation if guilty, nor his evil deeds apart from the charge against him condemn him if innocent."[71]

The plays of Aristophanes[72] teem with criticisms, more or less exaggerated, of the courts. One play, the *Wasps*, is entirely devoted to a satire of the judicial system. The jurors are represented as wasps ready to fasten their stings of condemnation in the defendants. Litigants are careful not to irritate the wasp nest.[73] Stinging is part of their business.[74] The carefree, irresponsible attitude of the jurors and the whole nature of the court is well caricatured, if not described in Philocleon's eulogy on the jurors' "Happy Life."[75]

"Then when I have entered the court room, after being entreated and having my anger wiped away, I perform none of all these things that I promised; but I listen to them uttering all their eloquence for an acquittal. Come let me see; what piece of flattery is it not possible for a dicast to hear there? Some lament their poverty, and add ills to their real ones until by grieving they make theirs equal to mine; others tell us stories from the myths, others some joke from Aesop; others again play some funny pranks that I may laugh and lay aside my wrath. . . And if Oeagrus[76] enters court as a defendant he does not get off until he recites us a passage from the Niobe, the most beautiful that he can find. And if a flute-player gains his suit, as our fee for this he plays a finale for us dicasts, as we leave the court, with his mouth-piece on. . . Do I not hold a great empire and one in no way inferior to that of Zeus, I who have the same title as Zeus? At any rate if we jurors make an uproar[77] each of the passers-by says 'Lord Zeus, how the court thunders!'"

Before these popular courts the sycophant had a distinct advantage over his victim. Mere accusation against a man was enough to prejudice the jurors, who regarded the whole proceeding from a per-

[70] Aesch. 1, 84.

[71] Ant. 5, 11. Bonner, *Evidence* Chap. II. Cf. Dem. 20, 166.

[72] Aristophanes was by no means an impartial critic of Athenian democratic ideals. Vid. p. 18.

[73] 399, 1101.

[74] 1113, 1121.

[75] 559-567; 578-582; 620-625.

[76] A tragic actor.

[77] 622 *θορυβήσωμεν*; cf. *μὴ θορυβεῖτε* (Plato *Apol.*).

sonal standpoint. Defendants keenly felt that the odds were against them. The plaintiffs who were in no danger could state anything they wished, while the defendants in their fear forgot even the good deeds they might mention.[78] Philocleon, who is pictured by Aristophanes as a typical juror, in the trial of the Dog decides against the defendant before both sides are heard;[79] refuses to believe the defence;[80] has come to court with "condemnation in his eye;"[81] hates to realize that he is beginning to feel a little compassion for the defendant;[82] and finally faints from the shock when he learns that he has, by mistake, acquitted a "man on trial."[83] For such an act he doubts if the gods will forgive him.[84] The sycophant as the first speaker, could paint his opponent as bad as he desired. He was familiar with the appeals to which the jurors were most susceptible and could use them to good effect.

This situation made it relatively easy for the sycophant to levy blackmail. Few of those whom he threatened with prosecution would care to risk trial before this turbulent mass meeting so easily swayed by appeals to passion, prejudice, self-interest, power and pity.

In spite of the blackness of this picture it must be remembered that the purpose of this section on the nature of the Courts is not to prove that justice was impossible in Athens. That would of course be untrue. It is however necessary to keep in mind the possibilities of the miscarriage of justice. No one would pretend to take all that Aristophanes says in satire of the democracy as representing the actual situation. However, he cannot be very far from the real condition. His description usually contains just enough exaggeration to make it humorous. He would be a very poor artist indeed if he misrepresented circumstances in Athens to any great extent. One of the chief reasons for assuming that his criticism, and the biased statements of litigants, are not far from the truth, is the generally accepted contrast between the Areopagus and the other courts.

The situation has been well described by Wyse.[85] "There is no evidence that the Athenian judges were often bribed or terrorized or

[78] Hyp. I, 8. cf. Ar. *Wasps* 878.
[79] Ar. *Wasps* 920.
[80] *Ibid.* 966.
[81] *Ibid.* 847-50.
[82] *Ibid.* 973.
[83] *Ibid.* 1000.
[84] *Ibid.* 1001-2.
[85] Whibley, *Comp. to Greek Studies*, 3rd ed. 476.

intentionally dishonest. Neither did the discretion granted them in the absence of a statute become an instrument of oppression. This danger, though real enough, was diminished by the number and representative character of the judges, who were not likely to treat as criminal, acts tolerated by public opinion. But the speeches of the orators are a convincing proof, if proof be needed, of the vices inherent in such a system. The amount of injustice done cannot now be estimated, but it is sufficient condemnation of the courts, that appeals to passion and political prejudice, insinuating sophistry, and outrageous misrepresentations of law were judged by shrewd and experienced observers suitable means to win a verdict. No development of law was possible; nothing excited the suspicion and mistrust of the judges so much as a display of legal subtlety. . . The conclusions of a court were bare affirmations or negations, not discriminating between law and fact, applicable only to a particular case and based on reasons which were known only to the individual voters, and perhaps not always to them. And these decisions, such as they were, could not bind another court, for in theory and practice the courts were equal and independent, each being a committee of the sovereign people supreme and irresponsible."

### *The Prevalence of Sycophancy*

Indications of the great prevalence of sycophancy are numerous in the plays of Aristophanes. An incident that illustrates very well the omnipresence of the watchful "informer" is found in the *Acharnians*.[1] The Megarian has just arranged a trade with Dicaeopolis. Then the sycophant appears with his "*φανῶ ταδὶ πολέμια καὶ σέ.*" In utter disgust the Megarian bursts out, "*τοῦτ' ἐκεῖν', ἵκει πάλιν ὅθενπερ ἀρχὰ τῶν κακῶν ἀμῖν ἔφυ.*" The first two words are enough to describe the situation. "*τοῦτ' ἐκεῖν.*" "There it is." The expected, the dreaded had happened. A subsequent episode in the same play shows the abundance of these men in Athens.[2] A Boeotian brings some choice Copaic eels to the market of Dicaeopolis and wants goods in return. Dicaeopolis offers him anchovies and crockery. "No. Give me something that we can't get at home." And Dicaeopolis has no doubts about what Athens has and Boeotia has not. At once he replies: "I know just the thing. Bring out a sycophant."

[1] 818 ff.
[2] 903-4.

Aristophanes is fond of playing on the meaning of words that can be connected in sense or etymology with either of the two parts of *συκοφαντεῖν*. Puns on *Φάσις*, a legal process much used by sycophants against those who were alleged to have contraband goods in their possession, and the river *Φᾶσις* were particularly effective. One of Dicaeopolis' market rules is *ἐνταῦθα μήτε συκοφάντης εἰσίτω μήτ' ἄλλος ὅστις Φασιανὸς ἐστ' ἀνήρ.*[3] A similar pun occurs in the *Birds* where Peisthetaerus admits that he is *Φασιανικός*. "From Phasis" applies exceedingly well to Athens the "land of informations."[4]

Numerous also are the puns on words that suggest a resemblance, near or remote, to the substantival part of the term (*σῦκον*). In the *Wasps* Philocleon is trying to get out of his house in order to join his fellow dicasts on their way to court. He is represented as resorting to all sorts of methods. One is to go out of the chimney as "smoke." "What kind of smoke?" asks his son. "Figwood" (*συκίνου*) is the answer.[5] And later on at the trial of the dog it is decided that if he is found guilty he shall receive a "collar of 'fig-wood'" as his punishment.[6]

Aristophanes was not the only comic poet who ridiculed the sycophants. Cratinus' "My Lady Bribery of the Fig-sandal" (*Δωροῖ συκοπέδιλε*) was a favorite song at banquets.[7]

[3] *Achar.* 725-6. This has been cleverly translated by Walsh.

"Here let no base informer dare to come
Nor any other man from Quibbleford."

This brings out the pun on Athens as "Quibbletown," and the river Phasis.

In the *Knights* (1256), Demosthenes asks the Sausage Seller if he may be his "Phanus" or secretary of indictments.

[4] 68.

[5] 145.

[6] 897-8. Cf. *Plutus* 946, where the sycophant thinks he will feel safe if he finds a companion of "figwood" (i. e., a club made of figwood.). As a thrust at the sycophant, Aristophanes evolved one of his best comic compounds. Bdelucleon (*Wasps* 505) says that he wants to make his father live the life of a gentleman and be freed from "these early-rising-base-informing sad litigious plaguy ways," *ὀρθοφοιτοσυκοφαντοδικοταλαιπώρων τρόπων.*

One of the best indications of the readiness to suspect men as guilty of sycophancy is found in the *Plutus* (970). Chremylus has just disposed of a sycophant, when in comes an old woman lamenting loudly as the sycophant had done. "Now what's the matter here?" he asks in comic despair, "are you by any chance a "sycophantress"? *ἦ, τοῦ καὶ σὺ συκοφάντρια.* The Scholiast's explanation that this is equivalent to asking if she is *πονηρά* lacks point.

[7] *Knights* 529. This involves a parody on the Homeric *Ἥρη χρυσοπέδιλε* with the ever present pun on *συκοφάντης*. Vid. Rogers' note ad loc.

Much of Aristophanes' satire on the evils of the day is, no doubt, exaggerated. One cannot suppose that the situation is exactly as bad as he paints it. But after making due allowance for exaggeration, there is every reason for believing that his constant ridicule of sycophants would have had no dramatic value if sycophancy had not been a prominent and well recognized evil in Athens.

We are not compelled to depend upon Aristophanes alone for information about the prevalence of sycophancy. Evidence of every sort is common in the orators.

Prosecutors constantly attempt to convince jurors that they have personal motives for bringing suit. This is due to the fear that they may be regarded as sycophants or, at least, as unduly litigious. The satisfaction of a personal grudge by means of litigation was considered a proper proceeding in Athens. "For what one hears in public cases is certainly true, 'that personal or private enmities rectify many public wrongs.' "[8] The necessity of making this usual introduction is indicated by Lysias in his accusation of Eratosthenes.[9] He asserts that "formerly accusers had to show what their private enmity was against the defendants." Although he seems to suggest that the situation had changed and other things were so necessary that this was no longer done, he cleverly lets the jurors know that he has personal reasons by saying, "Not that I have no private grudges." Even the unqualified protests against the custom of urging private motives for a prosecution, to which expression is occasionally given, are equally instructive as to the prevalence of the practice.[10]

Sometimes a speaker assures the court that he is not a sycophant. "I am not acting as a sycophant in introducing this ἀπογραφή," is the introduction made by the litigious Apollodorus in one of his prosecutions.[11] So Trygaeus, the hero of the *Peace*, on Heaven's threshold answers the question as to who he is, by the assurance that he is "no sycophant or lover of lawsuits."[12] It would be fatal to his mission to be mistaken for that undesirable type of Athenian.

The majority of speakers, however, content themselves with a protestation that they are not litigious. The implication that they are not sycophants would be plain. "I am not φιλοπράγμων but

[8] Aesch. 1, 2.
[9] Lys. 12, 2-3.
[10] Vid. Lyc. *c. Leoc.* 6; Dem. 23, 1; Lys. 31, 2.
[11] Dem. 53, 1.
[12] Ar. *Peace* 191.

ἀπράγμων." "It is with no mere fondness for litigation that I have brought this suit";[13] "I have never brought a public suit against a citizen, gentlemen of Athens, nor have I harrassed anyone when he was passing his accounts, but in respect of all of these things I have conducted myself, in my opinion, as a good citizen should";[14] "I have tried every method possible in order to come to terms with the defendant, so as to avoid using the courts, and I come here as a last resort."[15]

Occasionally the prosecutor is not content to show that he has lived a life of ἀπραγμοσύνη, by asserting that he has not worried others with lawsuits. He couples with this the assurance that his life is such a peaceful one that no one has ever brought suit against him.[16]

An exceedingly frequent method of describing one's unfamiliarity with the courts is to picture one's helplessness and inability to make a good speech or to plead well. "I am so far from being able to speak about what it is fitting that I should, that I am afraid that I shall find myself unable to speak even about what I am compelled to speak."[17]

The charge of sycophancy against the other side is a common means of averting suspicion from oneself. A man so branded was at a disadvantage: "I am unexpectedly fallen upon charges and villanous sycophants";[18] "not as a sycophant have I brought this suit, but because I was myself vexatiously prosecuted";[19] "My opponent is an exceedingly clever speaker and very familiar with the courts"; "all his life is spent in the courts";[20] "the case against me has been 'trumped up' ";[21] "the case has been brought for money."[22]

[13] Dem. 39, 1.

[14] Aesch. 1, 1.

[15] Dem. 30, 1 ff., cf. Lys. 32, 1-2.

"With no desire to gain the money of others unjustly, have I brought this suit," says the speaker in the *Trapezitic*us (Isoc. 17.1.). "I have enough money even if I lose the suit." The desire to avoid the charge of sycophancy is strong indeed to make a litigant confess that he has money.

[16] Dem. 24, 6; Lys. 12, 3; 19, 55. Dem. 34, 1.

[17] Lys. 17, 1; Dem. 21, 141.

[18] Lys. 7, 1; (Dem.) 40, 5, 12, 16, 32, 43, 53. That the accused in this case is a professional sycophant does not damage the value of the statements.

[19] Aesch. 1, 1. *αὐτὸς ἰδίᾳ συκοφαντούμενος.*

[20] Dem. 22, 4; 23, 206; vid. also Plato *Apol.* 17 BC.

[21] And. 1, 117; sec. 1-7 are τόποι of this nature also. Dem. 24, 1.

[22] Ant. 5, 59, 79.

Doubtless the most instructive passage on the prevalence of sycophancy and on the attitude of the bulk of the Athenians toward it is found in the *Antidosis* of Isocrates. In his old age the orator feels the necessity of writing a defense of his life and teaching. The plan that he chooses for this defence is significant.[23] "I saw that if I should endeavor to praise myself, I should find myself unable to include everything that I had set out to discuss, and that I should not succeed in speaking pleasingly nor fail to incur envy. But if I should represent myself as involved in a lawsuit and in danger, and represent the one who had brought the suit against me, and was causing me the trouble, as a sycophant who employed the same slanders that were used against me in the antidosis case, and if, further, I should represent myself as speaking in the form of a defense, I saw that in this way it would be possible for me to talk most easily about anything that I might happen to want to discuss." This speech was not intended for delivery in the courts, but for publication. This makes the statement more valuable. Not all the accusations of sycophancy made by litigants in the court room can be taken seriously. Their statements are *ex parte*. But the use of the sycophant *motif* in this speech by Isocrates, indicates that those of the reading public into whose hands the ἀπολογία would fall, were sure to receive with sympathetic interest an autobiography that represented its author as a much abused citizen hounded by a sycophant.

Since sycophancy had become such a disease it is not surprising that some conservative and anti-democratic Athenians preferred to live away from the city. This would be especially true of the wealthy ones who were in greater danger from the sycophants. Diognetus, the brother of Nicias was beset so much by sycophants that he left the city.[24] Some citizens possessed estates in Thrace and resided there to be rid of the litigation and worry of Athens.[25] In the *Knights* Cleon is represented as endeavoring to bring such men back to Athens and involve them in lawsuits. "And if you know of some one who is living a peaceful life, free from lawsuits and who is a dullard, you bring him back from the Chersonese, catch him around the middle, nip him in the hook of your arm, then wrench his shoulder and—bolt him."[25] Charmides in the *Symposium* of

[23] Isoc. 15, 8.

[24] Lysias 18, 9.

[25] Ar. *Knights* 261 (Merry.) Cf. Frere's notes ad loc.; Ant. 5. 78; Ar. *Wasps* 281. Van Leeuwen takes this to refer to a rich cleruch.

Xenophon,[26] congratulates himself on his poverty, because it freed him from the persecutions of the numerous sycophants who beset him when he was wealthy. "Then I was compelled to fawn on them for exceedingly good reasons. I was always being appointed to some service by the state, and was never able to get away from Athens."[27] Freedom from attacks by sycophants is regarded by Plutarch as one of the consolations for banishment.[28]

The whole plot of the *Birds* centers about the desire of two conservative Athenians to get away from litigious Athens and spend their days quietly. Of course, this is not direct proof that Athenians in any great numbers did look for a *τόπον ἀπράγμονα* in actual life.[29] But taken together with the other references to the habit it is corroborative evidence.

Sycophancy had grown until it had become a profession in Athens. Epichares, one of those in the cabal against Andocides, is accused of having lived by sycophancy under the democracy.[30] There must have been a considerable number of such professionals, since the first attack of the Thirty was made against those who made a living by the methods of sycophants.[31] When Praxagora tells her husband that under the new situation, with women in control of the government, he shall no longer be permitted to play the sycophant, he cries out "Oh! by heaven. Don't do that. Don't take away my life and livelihood."[32]

There are good reasons for believing that the profession of sycophant was handed down from father to son in some families. The sycophant that makes his appearance in Nephelococcygia knows of no way to make his living except by his pettifoggery. He refuses to learn any more honest occupation. That would be to shame his

[26] IV, 30.

[27] Clearly he does not mean merely that his liturgies kept him from the pleasures of travel. The force of the *καὶ γὰρ δὴ καὶ* and of the *μέν* and *δέ* of the following clauses shows that the *ἀποδημεῖν*, if it had been within his power to indulge in it, would have been a method of relieving himself of the necessity of "fawning" on the sycophants.

[28] *De Exilio* 11. (Didot Vol. I, 729.)

[29] Ar. *Birds* 44.

[30] And. 1, 99.

[31] Xen. *Hellen.* II, 3, 12. Sycophants are blamed for the war (*Achar.* 820) and the revolt of the allies (Lys. 25. 19; Isoc. 15, 316-18). This implies that there were very many.

[32] Ar. *Eccl.* 562-3 *μηδ' ἀφέλῃ μου τὸν βίον.*

family. The profession of sycophant has been in his family for several generations and it would mean disgrace to give it up.[33]

To anyone but the extreme democrat the sycophants must have been *βαρεῖς*.[34] There is little reason for wonder that the Thirty made their first attack on democracy by ridding the state of those who made a profession of sycophancy.[34] In regard to this measure there was apparently unanimity of opinion among the tyrants. Theramenes, who was always regarded the most moderate of the body, in his defence of his opposition to their extreme cruelties, says, "While you put out of the way those who were confessedly sycophants we were all of the same mind."[35] Aristotle says that the city was delighted with the first measures of the Thirty; "the execution of the sycophants and others who were *κακοπράγμονες καὶ πονηροί*." People thought that the Thirty were acting for the good of the state.[36]

Many an Athenian would undoubtedly agree with the Megarian in the *Acharnians:* "*οἷον τὸ κακὸν ἐν τοῖς Ἀθήναις τοῦτ' ἔνι.*"[37]

No better statement of the situation that had been brought about by the prevalence of sycophants can be found than the words of the orator Lycurgus. "Things have now come to such a pass, that the man who undergoes personal risk and incurs hatred for the sake of the state, gets the reputation of being not *φιλόπολις* but *φιλοπράγμων*."[38] The situation had changed since the days of Pericles, when a man who was *ἀπράγμων* was regarded as a useless citizen.[39]

[33] Ar. *Birds.* 1432 ff.; 1451 ff. Cf. Müller-Strübing, *Aristoph. u. die Hist. Kritik.* p. 326 ff., for the same view. Cf. Ar. *Frogs* 1146-49.

[34] Hell. II, 3, 12.

[35] *Ibid.* II, 3, 38.

[36] *Const. of Athens.* 35, 3.

[37] Ar. *Achar.* 829.

[38] Lyc. *c. Leoc.* 3.

[39] Thucy. 2. 40.

## CHAPTER II

### The Activities and Methods of Sycophants

### *The Sycophant as Litigant*

Although the provision of ἐξεῖναι τῷ βουλομένῳ γράφεσθαι laid the whole range of public suits open to the sycophant, he would naturally prefer such as yielded him money if he was successful. These were (1) φάσις (2) ἀπογραφή (3) γραφὴ ξενίας.

φάσις. This is defined as "the action brought against those who contravened the laws relating to trade, the customs, mining, and also against guardians who had either omitted altogether to invest their wards' fortunes or had made a bad investment." In case of successful prosecution, the plaintiff received one-half of the amount of property confiscated or of the fine levied.[1]

The most common φάσεις seem to have dealt with matters of trade and commerce, and our information about their use in such cases is more accurate than in the others.[2] The procedure was used against those who carried goods contrary to law to some non-Athenian market, or loaned money on a ship that made its return voyage to some other harbor than Athens;[3] against those who broke the laws about importation[4] and exportation, especially against those who imported something from an enemy[5] or sent weapons or material for shipbuilding to an enemy;[6] against those who broke the custom laws.[7]

No speeches arising from a φάσις are extant. There are however references to such suits in the orators. An instance in which a professional sycophant brought a φάσις is mentioned in the case of *Epichares vs. Theocrines*. The defendant in this case, to accept his opponent's story, had brought suit by φάσις against Micion for the violation of some mercantile law. Before the case came to trial he accepted Micion's overtures for settlement. This settlement Epichares uses as one of the several charges against the defendant.[8]

[1] Gilbert, *Const. Antiq.* (Eng.) 406; Lipsius, *A. R.* 310; (Dem.) 58, 13.
[2] Lipsius. *op. cit.* 312.
[3] (Dem.) 35, 51. Cf. (58, 12); 56, 6.
[4] C. I. A. I, n, 31, i A.
[5] Ar. *Achar.* 819 ff.; 908 ff.; Isoc. 17, 42.
[6] Ar. *Frogs*, 362 ff.
[7] Ar. *Knights* 300 ff.
[8] (Dem.) 58, 8.

A similar φάσις is mentioned in the *Trapeziticus*.[9] The speaker has occasion to refer to an incident in the past when he was nearly condemned to death because some sycophants brought a φάσις against him, alleging that a ship, on which he had loaned money, belonged to a man from Delos. The danger in which he had found himself is probably due to the fact that Delos had been opposed to Athens in the Corinthian War[10] and the jurors were easily inflamed against any one who seemed to have been aiding the enemy. At such times φάσεις would prove extremely attractive to sycophants.

It is reasonable to suppose that φάσεις against those who neglected their duties as guardians were rather numerous. The attitude of jurors on a case in which orphans were concerned would encourage many a sycophant to prosecute wherever possible. The speaker in the παραγραφή *vs. Nausimachus* shows how easy it was to secure conviction in such cases. He justifies his father's action, years before the trial, in settling with his wards out of court, when they brought suit against him for breach of trust: "For they were orphans and young and their characters were unknown; things that with you, as every one says, outweigh a multitude of arguments."[11]

Φάσεις against those who broke the laws regulating the use of mines may have been quite common. Hyperides uses such a φάσις as an example of a suit in which a sycophant lost his case in the court.[12] Perhaps the difficulty of keeping to the boundary lines, under the surface of the earth, offered a litigious person chances of bringing such suits.

It is likely that the φάσις was the form of procedure used to prosecute those who infringed upon the law that limited the number of olive trees that an Athenian might use yearly. The defendant, if convicted, was obliged to pay three hundred drachmae to the state and the same amount to the prosecutor.[13]

In other φάσεις the penalty was assessed by the court (τιμητός).[14] In cases where a man was convicted of contravening the commerce laws the penalty was, in all probability, confiscation of vessel and cargo.[15] In φάσεις against guardians, the penalty was a fine of which

[9] Isoc. 17, 42.
[10] Lipsius, *A. R.* 312, n. 13.
[11] Dem. 38, 20. Cf. 37, 45; (58, 6).
[12] Hyp. IV. 35.
[13] (Dem.) 43, 71. Cf. Lipsius *op. cit.* 313.
[14] Lipsius *op. cit.* 315.
[15] *Ibid.*, 313 n. 13.

a part went to the ward and a part to the successful prosecutor.[16] Opportunities for gaining such rewards could not fail to be extremely attractive to the sycophant.

Φάσεις are mentioned as some of the suits regularly used by sycophants like Aristogiton[17] and Menecles and his set.[18] The numerous references to the φάσις in Aristophanes, both directly and in puns, show how common it was.[19] These references imply that sycophants made free use of this form of suit. The troubles that Dicaeopolis had with sycophants in his market clearly show how watchful informers were for a chance to report contraband goods.

Probably the best indication of the frequency with which sycophants used the φάσις is the important part that φάσις and φαίνειν in their technical legal sense, play in some of the suggested etymologies of συκοφαντεῖν.[20]

ἀπογραφή. This term has two common meanings. (1) An inventory of goods claimed as state property and alleged to be unlawfully held by a private person. (2) The legal action taken to recover such property for the state. The ἀπογραφή was most commonly used against state debtors who concealed their effects, or against some one who was supposed to have unlawful possession of confiscated property.[21] Relatives were constantly accused of concealing confiscated property, or of complicity in concealing the effects of a state debtor.

Several features of the ἀπογραφή made it especially attractive to sycophants. The successful prosecutor received three-fourths of the property recovered.[22] Such a large reward was intended to encourage watchfulness on the part of the citizens. Recovery of property for the state was important. In an ἀπογραφή the prosecutor had a decided advantage. The defendant was naturally a man of means. No sycophant would care to bring such accusation against a poor man. He could afford therefore to slight the evidence and devote much of his time to generalizations about the defendant's wealth and to appeals to the jurors' cupidity. In the extant speeches that deal

[16] Cf. *Ibid.* 315, n. 23; Pollux VIII, 48; Plato *Laws* 928 BC; 745A.
[17] Dem. 25, 78.
[18] Dem. 39, 14.
[19] Ar. *Achar.* 819; 908. Vid. p. v. above for other references.
[20] Plut. *Solon* 24.
[21] Paley and Sandys, Intro. and Notes, Dem. 53; Lys. 19.
[22] Dem. 53, 1.

with the ἀπογραφή this is the course followed. The wealth of Eucrates the brother of Nicias figures very prominently in one.[23] In the case *vs. Philocrates* his free use of money for bribery is emphasized as an indication of his wealth.[24] The plaintiff in *Apollodorus vs. Nicostratus* devotes but little time to matters that are relevant to the case before the court.[25] At the end he makes strong appeal to the jurors by reminding them that the suit deals with "what is their own." Some prosecutors did not hesitate to warn the jurors that their fees were in danger unless the treasury was replenished by conviction of the defendant.[26] When conviction meant confiscation of property or payment of fines this was especially effective. The danger of defendants was much greater if the suit was brought when the funds of the state were low. The defendant in the ἀπογραφή brought for the recovery of the property of Aristophanes comments on the slight chances that he has in such a suit in view of the scarcity of money in the public treasury and the general belief that the man whose property is in question was wealthy.[27]

The readiness of jurors to suspect friends, and especially relatives, of concealing confiscated property added to the advantage that the sycophant had in this suit. The ἀπογραφή *vs. Philocrates* was brought under the conviction that he had in his possession the property of his comrade Ergocles, who had grown rich at public expense.[28]

When relatives were on trial prosecutors neglected to confine their remarks to proof that these relatives had in their possession the property in question. They attempted rather to show that the defendants were rich men and let it be inferred from probabilities that a part of this wealth was derived from the property which they were said to have concealed. Such arguments tended to influence the jurors against the accused. In the ἀπογραφή for recovery of the property of Aristophanes, the property actually at stake is that of Aristophanes' brother-in-law.[29]

While there is no certain instance of ἀπογραφαί brought by sycophants apart from the one mentioned by Hyperides,[30] the case dealing

[23] Lys. 18, 1. Vid. p. 30, n. 31
[24] Lys. 29, 1; 28, 1.
[25] Dem. 53, 26-27; cf. Lys. 29, 8; 19, 11.
[26] Lys. 27, 1.
[27] Lys. 19, 11.
[28] Lys. 28, 1.
[29] Lys. 19, and vid. Adams' intro. p. 162, note 2.
[30] IV, 35 ff.

with the property of Eucrates,[31] the brother of Nicias, is a good example of the methods that a sycophant would follow. Eucrates was put to death by the Thirty in 404 B.C Several years later Poliochus proposed the confiscation of the property left by Eucrates. A decree was passed to that effect. In the speech that we have the elder son of Eucrates opposes its execution. The reasons for the confiscation are not known. The impression that the defense makes, however, is that the whole affair is due to some litigious person's desire to enrich himself by bringing before the court a relative of the wealthy Nicias, who was never a friend of the extreme democracy. Ordinarily the relatives of a man put to death by the Thirty would run no such risk as the descendants of Eucrates do in this case. But the wealth and conservative tone of this family were serious disadvantages. Confirmatory evidence for this view is found in the reference to the voluntary exile of Diognetus, another brother of Nicias, due to the malicious persecution of sycophants.[32]

Opportunities of bringing ἀπογραφαί against state debtors must have been numerous. The case of *Apollodorus vs. Nicostratus* is of that type. The litigious nature of the prosecutor and his careful insistence on the desire to avenge himself for personal wrongs might arouse suspicion that in this instance we have a case in which the prosecutor is a sycophant, and is bringing the suit for the financial gain that there may be in it. But his renunciation of the reward is rather conclusive proof that he is sincere in the motives he alleges.[33] After all it is not important whether Apollodorus is a sycophant in this prosecution or not. His careful insistence on personal motives and the renunciation of the fee are intended to show that he is not. This in itself is the best indication of the degree to which sycophants used the ἀπογραφή. The jurors were likely to be suspicious of a prosecutor in a suit of this type unless he made special efforts to put himself in the right light before them.

There are general charges of sycophancy in some of the cases.[34] These do not, to be sure, prove anything about the character of the

[31] Lys. 18. Lipsius (*A. R.* 299) regards this speech as dealing with an ἀπογραφή. It certainly has the tone of a defence rather than that of a speech delivered by a prosecutor attacking the constitutionality of a decree. For the latter view vid. Jebb *Att. Or.* Vol. I, 229.

[32] Lys. 18, 19.

[33] Dem. 53, 1 ff.

[34] Lys. 19, 9, 51, 64.

prosecutor in question. But they point unmistakably to the fact that the ἀπογραφή was a favorite suit with sycophants. There were undoubtedly many of the profession who like Agoratus enriched themselves by this form of suit.[35]

Significant evidence of the number of φάσεις and ἀπογραφαί that were brought by sycophants is found in the fact that Hyperides chooses such suits as typical examples of the activity of sycophants.[36] The orator devotes considerable space in the latter part of the speech for Euxinippus to a defence of the courts. His main thesis is that sycophants are regularly punished and that in this way the courts aid the citizens. As examples of this he cites the cases of Lysander and Teisis. The latter had brought an ἀπογραφή alleging that the property of Euthycrates was liable for confiscation. To win the jurors' votes he promised to get for the state more than seventy talents. He also made promises of bringing similar actions against two other Athenians. He lost his case, however, and did not receive one-fifth of the votes. The case of Lysander was similar. He had brought a φάσις against Epicrates on the ground that he was not keeping within the prescribed limits in the working of his mine. He also used the customary methods in trying to influence the jurors. He assured them that conviction meant three hundred talents for the state. In spite of this he lost the case. Hyperides naturally picks out well-known examples in which the nature of the cases brought by the sycophants was so clear to the jurors that the appeals that were usually effective failed to have their expected results.

γραφὴ ξενίας.[37] The law quoted in *Theomnestus vs. Neaera et Stephanus*[38] shows opportunities for financial gain in another kind of suit. "If an alien shall live as husband with an Athenian woman by any device or contrivance whatsoever, it shall be lawful for any Athenians, who are possessed of such right, to indict him before the judges. And if he is convicted, he shall be sold for a slave and his property shall be confiscated, and the third part shall belong to the person who secured his conviction. And the like proceedings shall be taken, if an alien woman live as wife with an Athenian citizen

[35] Lysias 13, 65. ἀπογραφή is here mentioned as the sort of procedure that this sycophant had used with great financial success.

[36] Hyp. IV, 33 ff.

[37] Vid. Lipsius *A. R.* 417; Meier-Schömann-Lipsius, *Attische Process*, (MSL) 424 ff.

[38] (Dem.) 59, 16; (Kennedy).

and the citizen who lives as husband with an alien woman so convicted shall incur the penalty of a thousand drachmas." Also this law:[39] "If any one shall give a foreign woman in marriage to a citizen of Athens, representing her as belonging to himself he shall be disfranchised, and his property shall be confiscated, and the third part thereof shall be given to the person who has procured his conviction."

Stephanus and Neaera are accused of having transgressed these laws. If Apollodorus describes the situation truthfully, there can be no doubt that in this instance he and Theomnestus were justified in prosecuting. Their motives were, however, revenge and they emphasize this to make clear to the jurors that they are not sycophants. The chance of getting the reward would appeal to many who would accuse for no other motive. They were reasonably sure of success since the jurors would be influenced by the Athenian jealousy of the rights of citizenship and the desire to keep the Attic blood free from contamination.

As litigant the sycophant could avail himself, on occasion, of private suits (δίκαι) as well as public. But the chances here were fewer. He could bring such suits only if personally concerned.[40]

### *The Sycophant as a Blackmailer*

The most lucrative side of the sycophant's business must have been blackmail.[1] When one recalls the nature of the courts one realizes that many an Athenian would prefer to settle with his accuser out of court, rather than run the risk that a trial would involve. He never knew what incident in his past life might be brought into the case to influence the jurors or who might join in attacking him. The father of Mantitheus feared to come into court in a case brought by Boeotus lest someone who had been offended by him in some political act might come forward and aid his accusers.[2] If a man of means was haled to court his enemies regularly assisted the prosecutor and if a verdict was secured, it acted as an incentive to others to bring suits against him. The defendant in

[39] *Ibid.*, 52. (Kennedy).

[40] Discussion of the sycophant's use of δίκαι will be found on p. 46 ff.

[1] Lys. 25. 3.

[2] Dem. 39, 3. Cf. Ar. *Wasps* 841.

the case *vs. Simon*[3] states that Simon had made no effort to bring suit against him until he had been unsuccessful in some private suits that had sprung up as a result of an antidosis. In the defence of his life Isocrates represents himself beset by a sycophant who had attacked him after he lost the suit that dealt with the antidosis, and who made use of some of the misrepresentations and slanders directed against Isocrates in that suit.[4]

The fear aroused by a summons to court is shown by the fact that in the extant homicide cases the desire to dispose of a man who had begun or threatened litigation is constantly treated as one of the possible motives of homicide. This appears as a *topos* in the First Tetralogy of Antiphon.[5] The man whom the defendant is accused of having murdered had secured several convictions against him and had but recently entered a new suit. It was in the hope of avoiding this suit, so the plaintiff charged, that the defendant had committed the deed. Such extreme measures might be rather natural if the prospective defendant was actually guilty. But even the fear of meeting in court entirely groundless charges brought by a sycophant, seems to have been a conventional explanation of a homicide. Euphiletus, in his defense, when accused of the murder of Eratosthenes, relates why he was justified in killing the latter. He then shows that there was nothing else in his previous relations with the dead man that could be suggested as a motive for his action. "*οὔτε γὰρ συκοφαντῶν με ἐγράψατο*" is the first motive that he suggests for rejection.[6]

Other features also made blackmail very successful. It hardly needs to be said that the poor would scarcely ever be threatened with prosecution by a professional litigant.[7] There was nothing to gain if he won his suit and certainly no chances for getting money by threats of litigation. Therefore the wealthy and *ἀπράγμονες*[8] were the natural targets for the sycophant's attacks. "Those who are clever talkers and have no money try to make groundless attacks on those who are no speakers at all, but are able to pay well."[9] They hated litigation and could well afford to pay hush-money.

[3] Lys. 3, 20.
[4] Isoc. 15, 8, 33.
[5] Ant. A a 5-6. Cf. Ant. 5, 60.
[6] Lys. 1, 43.
[7] "*περὶ τὰς οὐσίας κινδύνων οὐ μέτεστι τοῖς πένησι.*" Isoc. 20.15.
[8] Ar. *Birds*, 285 *Καλλίας ὢν γενναῖος ὑπὸ συκοφαντῶν τίλλεται.*
[9] Isoc. 21.5.

Demosthenes describes a man who was so averse to litigation (*ἀπράγμων*) and so upright that he lost his whole property, evidently either through court judgments or by paying accusers to keep the matter out of the courts.[10] His desire to live without *πραγμοσύνη* was apparently well known to sycophants. "The rich can buy off *κίνδυνοι*" is the terse summary of the Cripple.[11] "By displaying their powers in the case of men who live uprightly they can exact much more money from real evil doers" is Isocrates' explanation of the activities of the sycophant against law abiding *ἀπράγμονες*.[12] "Those who are guilty of no wrong are the ones from whom sycophants get most of their money" is the opinion expressed by another speaker.[13] Timarchus is described as having made most of his money by blackmailing those who were entirely innocent of any wrong.[14] Cleon is said to have been especially ready to attack *ἀπράγμονες*.[15] The attitude of the jurors towards such wealthy defendants assisted the sycophant. Charmides in Xenophon's Symposium says that his most prized possession is his poverty. When he was rich he was compelled to fawn on sycophants and was in constant dread of losing his money because he knew that they could do him more harm than he could do to them.[16] The harm that he mentions is presumably the adverse decision that he would have reason to expect if he carried a matter to the court. "Before the jurors" says Isocrates somewhat bitterly, "a defendant must apologize for financial success. Wealth rather than crime makes a man's life precarious."[17]

A clear case of settlement to avoid trial is found in *Epichares vs. Theocrines*.[18] The defendant had brought a *φάσις* against Micion for violating some mercantile law. The latter had apparently intended to appear in court and defend himself, for the *φάσις* "was hung out for a long time before the synedrion of the overseers of the Emporium." Just before the anacrisis, however, Micion decided to pay Theocrines and so put a stop to the proceedings. Theocrines, the professional sycophant had probably suggested that this would

[10] Dem. 21, 83.
[11] Lys. 24, 17.
[12] Isoc. 15, 24-25.
[13] Lys. 25, 3.
[14] Aesch. 1, 107.
[15] Ar. *Knights*, 261.
[16] Xen. *Symp.* IV, 30.
[17] Isoc. 15, 160. Cf. Xen. *Mem.* IV, 2.35.
[18] (Dem.) 58, 6, 8 ff.

be an easy way out. Upon receipt of the money Theocrines withdrew his charge. The fact that the sycophant had accepted a trifling sum in settlement, and so lost the half of the forfeiture that conviction would have brought, is used by Epichares to prove that the φάσις against Micion was groundless. The reasoning is plausible. Micion may not have cared to take the risk that a trial would involve even though he was innocent.

References to such instances of blackmail are common. Theocrines seems to have been very successful in forcing people to pay him hush money.[19] Aristogiton another professional sycophant often started suit against men of high standing in the state and dropped proceedings when they offered money.[20] Ariston, made it his business to issue legal summons to "everybody" according to the statement of Hyperides. If those who were summoned did not pay him hush-money he forced them to come into court and stand trial.[21]

References to blackmail are frequent in Aristophanes. The Chorus of Knights urges Agoracritus, the Sausage Seller to attack Cleon for having received bribes. If he does this he will be the mightiest of the Greeks and rule over the allies, and will make much money by shaking (σείων) and disturbing (ταράττων) them.[22] The use of σείων suggests the description of Philocrates and his blackmail of magistrates.[23] One passage is of special interest and value in this connection. The Sausage Seller and Cleon are striving for the favor of Demus by offering rival oracles. One that the former reads warns Demus to "beware of Cyllene." "What Cyllene?" asks Demus. "He calls this fellow's hand Cyllene, and he is right in that. For he says 'put into my bent hand.' "[24] The pun is untranslatable and involves a play on Κυλλήνη a sea port in Elis and κυλλῇ (χειρί) a bent hand. The Scholiast explains the reference by the

[19] *Ibid.* 32.

[20] Dem. 25. Vid. Section on "Typical Athenian Sycophants" for full discussion, p. 78 ff.

[21] Hyp. 1, 2.

[22] Ar. *Knights* 840; for the same thought vid. Ar. *Peace* 639; *Knights* 472 ἴσειον τοὺς παχεῖς καὶ πλουσίους.

[23] σείω seems to be technical for "shake down." The remark of the Scholiast on *Knights* 1083 contains the reference to the sycophants as "οἱ σείοντες." In his time the word had apparently become fixed with that meaning. Vid. Van Leeuwen and Rogers *ad loc.*

[24] *Knights* 1083. Merry translates "Crookhaven."

statement that Athenian informers, while threatening their victims, were in the habit of slipping out their bent hands from under their cloaks, intimating thereby that they would stop all proceedings for a "consideration."

The blackmailer did of course run a risk. He might be disappointed in his hopes of receiving hush-money. It would then be almost necessary for him to carry the case into court. Not to do so would make future threats futile. This exposed him to the danger of losing the case and perhaps of failure to receive a fifth of the votes. The mere loss of a case entailed no serious financial inconvenience, but he would bear the stigma of having made an ineffectual attempt and for the sycophant that was serious enough. But failure to receive at least one-fifth of the votes usually involved a fine of one thousand drachmas and the inability of bringing a similar case again.[25] This makes it entirely reasonable that sycophants were willing ordinarily to accept rather small sums by way of settlement. Crito speaks of them as cheap and easily bought off.[26] Theocrines was willing to settle with Micion for a "trifling sum" rather than take his chances of winning a much larger sum by a successful trial, even though the reward in this case (φάσις) would have been unusually large.[27] The advantages that a prosecutor regularly had, however, were so much in the sycophant's favor that he would not often hesitate to bring suit if forced to do so. Moreover a suit was worth the risk. A successful prosecution, though it brought no financial advantage, increased the terror of the sycophant's name. How very effective this was is seen from an incident in the career of the sycophant Theocrines.[28]

The father of Epichares had drawn up a decree proposing that maintenance in the Prytaneum be given Charidemus, the son of Ischomachus. Theocrines brought a graphe paranomon against him for this motion. The boy had been adopted by Aeschylus. Theocrines urged that he should not be restored to his father's family; a situation that would result if the decree was passed. Under those circumstances he would lose the estate that Aeschylus had given him. He further asserted that Polyeuctus who had married the boy's mother, had contrived to have the decree proposed so as to get the money that the boy would lose if it were carried. Theocrines offered

[25] Vid. Section on "Checks on Sycophancy," p. 86 ff.
[26] Plato *Crito* 45 A.
[27] (Dem.) 58, 12-13.
[28] (Dem.) 58, 32 ff.

Epichares' father the chance of settlement. He said he was willing to withdraw his suit if he paid him ten talents. Such a sum the defendant could not pay however. The readiness of the Athenian jury to sympathize with orphans gave Theocrines a feeling of assurance in this case and he carried the matter through and won, as was to be expected. His success offered him an unusually excellent opportunity to extort money. He knew that the jurors were angered at Polyeuctus for what they considered a plot to rob an orphan. That was just the time to threaten him with prosecution. He would hardly dare to let the matter come to trial. Theocrines summoned him before the archon and brought a γραφὴ κακώσεως against him. For a while Polyeuctus hesitated as to what course to follow. Theocrines handed the indictment to the assessor. This decided the matter. Polyeuctus paid him three hundred drachmas and the case was dropped.[29]

To make their threats of litigation more productive of gain, sycophants employed others to assist them in frightening their victims. Callimachus sent "his friends" to urge a prospective defendant to settle out of court. They dwelt on the numerous chances of miscarriage of justice in the courts and urged him not to allow himself to be abused publicly (μὴ βούλεσθαι κακῶς ἀκούειν). Their arguments are said to be the usual ones on such occasions.

Callimachus also took occasion to spread rumors about the city of his own mistreatment at the hands of the defendant. Such statements were intended to affect the jurors' decision—some of the men to whom he talked might later serve as jurors on the case. And even if not, the rumors would be likely to come to the ears of the jurors.[30]

Suits in which no fine or atimia followed the failure to receive one-fifth of the votes offered the least danger to the sycophant, if he was compelled to put a threat of litigation into effect. So far as can be determined, however, there were very few such public suits. In fact, a literal interpretation of a passage in Isaeus would indicate that eisangeliae against those who mistreated orphans, heiresses, widows or parents were the only ἀκίνδυνοι γραφαί.[31] These at least were so. Court fees were even omitted in such cases. With regard

[29] In a similar way the success of Callimachus in extorting money made subsequent efforts successful. Isoc. 18,7-10.

[30] Isoc. 18, 7-10.

[31] Isaeus, III, 46-47.

to eisangeliae in general, references disagree. It seems probable, though, that originally all eisangeliae were ἀκίνδυνοι, especially since they were used only in cases that seemed to require extraordinary measures. The language in the case of *Ariston vs. Lycophron* indicates that in the time of Hyperides they were free from fine or atimia.[32] The statement of a Lexicographer to the effect that prosecutors who lost eisangelia were fined, but not punished with atimia, is probably true of the later time when sycophants had so abused these suits that measures had to be taken to check them.[33] Considerable opportunities for blackmail were undoubtedly offered by the eisangelia. The defendant would in all likelihood be turned over to the court for trial even though the case was brought in the first instance before either the ecclesia or Boulê. Under such circumstances he was in greater danger than usual. The very fact that the body before which the case had been entered thought the accused man worthy of trial made the courts more ready to believe him guilty. This situation offered the sycophant a splendid opportunity to get money from a man by threatening him with such a prosecution. If he paid, well and good. If he took his chances and came before the court (or whatever body tried the case) the suit was ἀκίνδυνος. If the man became frightened and left the country and went into exile, as some did who were threatened with this sort of suit,[34] the sycophant could point to the instance and pretend that he had done the state a great benefit in attacking a man who confessed, by his voluntary exile, that he was guilty. This would also incidentally show his power. In the hands of the sycophant Aristogiton the eisangelia was an effective weapon. He began eisanglia proceedings against Hegemon, but discontinued them when the latter paid him the bribe he desired. Over Demades he held threats of a similar suit until he forced him also to pay blackmail.[35]

Numerous chances for blackmail were undoubtedly found in threats of accusations against those who were exercising the rights of citizens though they were wholly or partially disfranchised.[36] Atimia in its various forms was very common in Athens. There were apparently

[32] MSL. 952; Hyp. 1, 12; Pollux VIII, 52 ff.
[33] Pollux VIII, 53.
[34] Lyc. *c. Leoc.* 90.
[35] Dem. 25, 47.
[36] Vid. D. and S. *Dict. des Antiq.* s. v. *atimia*: Lipsius *A. R.* partial, 245, 396; complete 789, 947.

no means of automatically insuring the exclusion of the atimoi from the rights of citizenship. The effectiveness of the atimia depended on the watchfulness of the citizens. That persons who were partially disfranchised did succeed in passing themselves off as ἐπίτιμοι with full rights, is shown by the fact that litigants constantly accused their opponents of availing themselves of privileges to which they were not entitled.[37] A full list of the various atimiae is hardly necessary for the present purpose. The most common seem to have fallen on state-debtors;[38] on those convicted for crimes that the Athenians considered especially serious—e.g., theft, ill-treatment of parents, desertion;[39] on prosecutors who failed to receive as much as a fifth of the votes in a public suit or who withdrew from a public suit after starting it.[40] A common form of partial atimia was that by which a man was prevented from speaking in public or serving as a juror.[41] In the very nature of the case there must have been many who attempted to disregard this restriction. The occasion for the suit of *Demosthenes vs. Aristogiton* was the latter's continued attempts to take part in the meetings of the assembly and to serve as juror, before he was discharged from certain debts to the state.[42] The same charge was included in the accusation against Theocrines.[43] One of the counts against Androtion was the charge that he was guilty of such practices as disabled him from speaking in public.[44]

The numerous offences included under the term ἀσέβεια were naturally the cause of much litigation.[45] The term was so wide in its application that it was comparatively easy to accuse persons for violating the law in this regard. The defendant had the religious prejudices of the jurors against him. The fact that in addition to the γραφὴ ἀσεβείας, there were also ἔνδειξις and εἰσαγγελία shows the seriousness with which these offences were regarded. The ἔνδειξις ἀσεβείας brought against Andocides shows how easy it was to find grounds for accusing some one of impiety, especially if he was

[37] Dem. 25, 30; 24, 166.
[38] Dem. 25, 30; 28, 1; 53, 14; 21, 182; 24, 123.
[39] Dem. 24, 105.
[40] (Dem.) 53, 1; 58, 10; 21, 103-4.
[41] Dem. 25, 30; 21, 103-4.
[42] Dem. 25,4.
[43] (Dem.) 58, 48 ff.
[44] Dem. 24, 123.
[45] For full treatment vid. MSL. 368 ff. Cf. also D. and S. *Dict. des Antiq.*

subject to a decree that rendered him practically an exile. The main charge against Andocides was that he was guilty of impiety because he had attended the Mysteries[46] and had entered the Eleusinian shrine[47] (at Athens) when expressly excluded by the decree of Isotimides.[48] To this were added the charge that he was guilty of impiety because he had habitually entered holy places from which the decree excluded him,[49] and that he had exercised the rights of citizen and entered the agora when prohibited by the decree.[50] Andocides would have been compelled to stay very close at home to avoid being involved in trouble with some one who might be watching for a chance to attack him in the courts. As he claims, some of his accusers are professional sycophants.[51] Whether they expected any overtures for settlement from Andocides is not known. The suit does show, however, what such men might do with persons less sure of their cases than Andocides.

The indictment of Socrates on the charge of impiety is too familiar to be discussed. Crito anticipates criticism on the part of Socrates' friends for his failure to prevent the trial of the case.[52] Presumably one method of doing this would have been to buy off the accusers. The friends who were ready to spend money and if necessary to lose their whole fortunes to get him out of prison were surely equally ready to prevent the trial.[53] Socrates himself, however, would most certainly have absolutely refused to consent to any such arrangement, just as he did refuse to leave prison.

Some opportunity for blackmail was offered by threats of ἔνδειξις against exiles who returned before their term had expired and against those suspected of homicide. Ἔνδειξις and ἀπαγωγή[54] are mentioned as means of procedure much used by sycophants like Menecles, Aristogiton and Theocrines.[55] The ἀπαγωγή could offer but few chan-

[46] And. 1, 3.
[47] (Lys.) 6, 42.
[48] And. 1, 71.
[49] (Lys.) 6, 9.
[50] *Ibid.* 6. 9, 33.
[51] And. 1, 92, 99-100.
[52] Plato *Crito* 45 E.
[53] *Ibid.* 45 B.
[54] Vid. Lipsius *A. R.* 317 ff. for full discussion of the relation of these forms of procedure to one another.
[55] Dem. 25, 78; 39, 14; (58, 45).

ces, but since the two procedures are so much alike and so often mentioned together it is natural to speak of both of them as favorites with sycophants. The cumulative effect gained by accusing sycophants of using *γραφαί, φάσεις, ἐνδείξεις, ἀπαγωγαί* may have appealed to those who prosecuted them.

There was one means of revealing offenders to the authorities that gave the sycophant splendid opportunities for displaying his power. This was *μήνυσις*.[56] In its essentials it seems to have differed very little from eisangelia. It could be brought before the Boulê or ecclesia and to judge from the instances of which we have knowledge it was commonly used in case of high treason or sacrilege. But the important difference between it and the eisangelia was that the *μηνυτής* was not required to do more than merely lodge information. He need not act as prosecutor before the courts unless he wished. This was a natural provision since the *μηνυτής* might be a metic,[57] a slave,[58] or an accomplice who turned state's evidence.[59] It was customary to reward him with money or if he was a slave with freedom.[60] Since the use of *μήνυσις* seems to have been made in most instances in times of great excitement, and when the state was much aroused and eager to punish wrong-doers the sycophant with threats of *μήνυσις* must have been very successful financially. A brief review of the account given by Andocides of the situation after the Mutilation of the Hermae will show how active informers (*μηνυταί*) were at that time.

In an effort to discover the guilty, high rewards were offered for information regarding the perpetrators of the sacrilege; one thousand, and ten thousand drachmae by the ecclesia and the Boulê respectively.[61] Andromachus, a slave, Teucer, a metic, Agariste, the wife of Alcmeonidas, Lydus, a slave all gave information.[62] Only one of these four, Teucer, mentioned the Mutilation.[63] The rest, and Teucer as well, told of other sacriligious occurences, the mock celebration of the Eleusinian Mysteries in the homes of prominent fami-

[56] Vid. MSL. 330 ff. Cf. DeVos 5. "Sycophanta . . . erat *πολίτης*." In the narrow sense of the term, only, would this be true.

[57] And. 1, 15.

[58] And. 1, 11, 17.

[59] And. 1, 59.

[60] Ant. 5, 34.

[61] And. 1, 27.

[62] *Ibid.* 13 ff.

[63] *Ibid.* 35.

lies, that antedated the Mutilation, and which might reveal the identity of those who were responsible for the latter sacrilege. Those whose names were given by these informers fled as soon as they could, without waiting for trial. Though Andromachus gave no information about the Mutilation he received the first prize for being the first to appear and Teucer received the second.[64] The information (*μήνυσις*) that Dioclides gave to the Boulê deserves to be discussed in full.[65]

He had risen early one morning to go to Laurium to get the money that was due him for a slave that belonged to him and who was working in the silver mines there. The moon was very bright; so bright in fact that he had mistaken the time and risen earlier than he intended, thinking that it was dawn. When he came near to the Propylaeum of Dionysus he saw a large body of men coming down from the Odeum into the Orchestra. He was very much disturbed at the sight and withdrew into the shadow of a column. Most of the men he could recognize in the bright moonlight and he estimated that there were about three hundred of them. At length he went on to Laurium. When he returned the next day he heard of the Mutilation of the Hermae. He at once suspected that the men whom he had seen were the guilty ones and saw a chance of receiving the reward that was offered. But his first step was not toward securing the reward offered, but blackmail. When he saw Euphemus the son of Callias sitting in a brazier shop he took him aside to the Hephaestaeum and told him that he had seen and recognized him and the others the night before and could report their names. He preferred however to be friends with them. Therefore he was ready to keep still if they would make it worth his while. He was no more anxious to get money from the city than from them. After some meetings with the members of Euphemus' family, to which Andocides belonged, he was promised two talents as hush-money. They had however not kept their agreement and therefore he was informing against them. He gave in the names of forty-two men, eight of whom were relatives of Andocides. Two of those reported were members of the Boulê. These were allowed to give bail. But they at once left the city and exposed their bondsmen to the danger of punishment. Andocides, who with the other members of his family was put into prison, finally turned state's evidence and explained the

[64] *Ibid.* 27.
[65] *Ibid.* 37.

Mutilation by showing that it was the work of the club of Euphiletus of which he was a member. He (Andocides) had opposed the deed when it was first discussed, but while he was too ill to leave his bed, the club had committed the outrage under the leadership of Euphiletus. His story was accepted as true. Dioclides who had been treated as "the savior of the city" was called in and questioned. He soon acknowledged that he had given false information. He had been "persuaded" to do so by Alcibiades of Phege (a cousin of the other and more famous Alcibiades) and Amiantus of Aegina (apparently to protect the famous Alcibiades who was in danger of suffering by being identified with the guilty ones.) Dioclides was put to death.

Even if the story told by Dioclides is entirely fictitious the methods by which he tried to extort two talents from the family of Callias must be regarded as usual. Plutarch in his *Life of Alcibiades*[66] states that Dioclides' reference to the bright moonlight made all men of understanding cry out upon the thing. It was new moon that night.[67] "But the people were as eager as ever to receive further accusations nor was their first heat abated, but they instantly seized and imprisoned every one that was accused."[68] The probabilities are that if Andocides had not turned state's evidence Dioclides could have gone on threatening citizen after citizen with information. He had made the number of those whom he said he had seen large enough. After the success of his first information no one whom he threatened would run the risk of allowing his name to be reported.

The nature of the dokimasia and the euthynae made them unusually good occasions for effective threats of blackmail. Of the four kinds of dokimasiae,[69] that of magistrates offered more chances than the others. Every official whether elected by show of hands or selected by lot was forced to undergo this examination before entering on the duties of his office.[70] The dokimasia might in all cases

[66] Plut. *Alcib.* 20.

[67] Grote (*Hist. Greece* Vol. VII, 199 note) is of the opinion that Plutarch is wrong.

[68] Dioclides had become the "typical Liar" of his day. Plutarch quotes a few lines from the comic poet Phrynichus that bring this out.

"O dearest Hermes! only do take care,
And mind you do not miss your footing there;
Should you get hurt, occasion may arise,
For a new Dioclides to tell lies."

[69] Vid. Lipsius *A. R.* 270.

[70] Arist. *Const. of Athens* 55, 2.

eventually come before the courts.[71] In all probability, the same, or nearly the same, questions were asked of all candidates.[72] After the candidate had answered the questions he introduced witnesses to prove the truth of his statements. The presiding officer then asked, "Does anyone wish to accuse this man?" One needs but to recall the eagerness with which the average Athenian entered into litigation to realize that accusers would not be slow in appearing. To be free from this examination, as were the jurors, was considered a great privilege. This in itself shows to what extent the accusations at the dokimasia were dreaded. The "τὶς βούλεται κατηγορεῖν" did not mean that the accusation should be limited to attacks on the answers that the candidates gave to the questions asked. Mantitheus describes the situation that met the candidate when he says that in dokimasiae one is expected to give an account of one's whole life.[73] There was no means of anticipating all charges that might be made. The course that a sycophant would follow would be not to rise up unexpectedly and accuse the candidate. There was nothing to gain for him in that way. He would probably threaten the prospective official before the examination and let it be understood that he intended to appear at the dokimasia unless he were paid to keep silent. Most candidates would undoubtedly be anxious to buy off accusers both in order to secure the office and to avoid unpleasant disclosures.[74] After the restoration of the democracy the chances of being threatened with charges at the dokimasia were increased by the tendency to introduce into all trials and especially dokimasiae, accusations of participation in the oligarchy and above all of some connection with the deeds of the Thirty.[75] The popular jury was naturally ready to reject a man whose past could be connected even remotely with that body.[76] In fact the dokimasia was

[71] For the discussion of the two views on this subject vid. Gilbert 219 (Eng.), and Lipsius *op. cit.* 271.

[72] Arist. *Const. of Athens* 55, 3; Dinarch. 2, 17; Gilbert *loc. cit.*; Lys. 31, 1-2.

[73] Lys. 16, 9; Lys. 24, 1.

[74] It would be dangerous to allow even a groundless charge to come to trial.

[75] The μὴ μνησικακεῖν of the Amnesty did prevent law-suits based on accusations of this kind. It could not however prevent the introduction of such matters into trials that dealt primarily with other things.

[76] Accusation of participation in the deeds of the Thirty are introduced into all the speeches of Lysias that deal with the dokimasia; Lys. 16; 31, 17; 26, 8, 10, 16, 17.

regarded as the means of keeping out of office those who had abused power under an oligarchy.[77]

Even greater concern was caused magistrates by the euthynae.[78] The privilege of being ἀνυπεύθυνοι, the prized possession of the jurors, was the envy of all magistrates in Athens.[79] The special importance of the punishment of guilty officials is set forth by Demosthenes in his prosecution of Aristogiton.[80] "Through them the state cannot help being either injured if they are vicious or on the other hand greatly benefitted if they are virtuous and choose to observe the laws. . . . In like manner the errors of private men do injury not to the multitude but to themselves, whereas those of magistrates and statesmen reach the whole people and therefore Solon ordered that punishments be speedy for official personages and political leaders." Timocrates and Androtion are even accused of negligence because in their thirty years of public life they had never seen fit to bear the duties of citizenship properly by accusing officials who did wrong.[81] Such a sentiment, if it found a response in the hearts of the jurors, would tend to make the euthynae especially searching.

Officials were not only examined at the end of their term of office but they were compelled to pass in their accounts every Prytany.[82] In addition to this, at the κύρια ἐκκλησία, the question was put to the assembly as to whether the officials seemed to be doing their duties well.[83] This offered any citizen a chance to bring charges against any official whomsoever. If these charges were considered serious enough the matter was given over to court for trial. However, to judge from the number of references to the final audit, it seems that it was on that occasion that charges were usually made. Whatever the procedure at the euthynae was it is certain that here too, as well as at the dokimasia, any citizen was given the chance to accuse. All officials whether guilty or not would dread such a public ordeal. The temptation to buy off one's probable accuser would be strong.[84]

[77] Lys. 26, 9. It is possible that a rejected candidate incurred a partial disfranchisement. Vid. Dem. 25, 30; Gilbert (Eng.) 220 n. 41; Lipsius *A. R.* 275-276.

[78] Vid. Lipsius *A. R.* 286 ff. for discussion of the Euthynae; also Gilbert (Eng.) 227.

[79] Ar. *Wasps* 587 ff.

[80] (Dem.) 26, 1-4.

[81] Dem. 24, 173-74.

[82] Arist. *Const. of Athens.* 45, 2; 48, 3; Lysias 30, 5.

[83] Arist. *Const. of Athens*, 43, 2; 61, 2.

[84] The dread that officials felt over the euthynae is expressed in true Aristophanic style by Philocleon's anger at the cock who wakes him too late, "bribed by those liable to account (ὑπεύθυνοι)" *Wasps* 101-102.

One of the most striking examples of the sycophant who extorted money from officials by threats of accusation at the euthynae is that of Philocrates whose methods have been discussed above. He made a business of extorting money from *ὑπεύθυνοι*.[85]

Aristogiton another professional sycophant attacked Demosthenes twice at the euthynae.[86] According to Aeschines, Timarchus extorted money from officials systematically. "When he became one of the public auditors (*λογιστής*) he did the city a great deal of harm by accepting bribes from such as had been unjust in the conduct of their offices. But he was more active as a blackmailer at the time of the euthynae against those who had done no wrong."[87]

One of the uses for which the sycophant could be employed according to Dicaeopolis was to serve "as a lamp to show up those who are to render their accounts."[88] It is noteworthy that this is the only field of activity mentioned by name in this connection. The others are all included in *τριπτὴρ δικῶν*. In the *Knights* Cleon is represented as an expert at the business of "picking the ripe *ὑπεύθυνοι*." Like a fig-gatherer he tests with a squeeze which are green and hard, which are ripe and luscious, and which are not quite ripe. Evidently those who are "fully ripe" are the ones worth "pulling" for the money they will pay.[89]

How common it was to "worry" magistrates at the time of their final audit is shown by the proemium of *Aeschines vs. Timarchus*. "I have never indicted any citizen, gentlemen, nor worried any of them at the euthynae."[90] The insertion of this in a proemium intended to prove non-litigiousness is very significant. It was one of the fields of activity with which the sycophant was naturally connected.

Private suits (*δίκαι*) offered the sycophant fewer chances of threatening prosecution, since only the person immediately concerned could enter such suits. In spite of this, the active sycophant, who watched his opportunities, found occasions for gain in this field. "In the same way every one has been in the habit of making groundless attacks upon me (*με συκοφαντεῖν*). They enter *δίκαι* in the interest

[85] Antiphon 6. 43.
[86] Dem. 25, 37.
[87] Aesch. 1, 107.
[88] Ar. *Achar.* 936 ff.
[89] Ar. *Knights* 259-60. Cf. *ibid.* 824. "Whenever you (Demus) are yawning, he nips off the tender tips of the audits and bolts them." (Merry).
[90] Aesch. 1, 1.

of private wrongs, they make charges in the interest of matters that affect the state, and spend more time in maligning my father than in proving the truth of their affidavit; and they disregard the laws to such an extent that they think it right to exact from me penalty for the wrongs that they say you suffered from him."[91] The nature of the courts made it possible for such attacks to be successful. A professional sycophant, with his expert knowledge of law, could undoubtedly extort money by threats of well-founded or groundless δίκαι. The notorious Callimachus was extremely successful in forcing such settlements.[92]

Cases of felonious wounding (δίκαι τραύματος) "seem to have been notorious as instruments of false accusation."[93] Aeschines charges Demosthenes with having brought such a case against Demomeles. He even says that this was one of his "habitual villanies."[94] In the course of his litigation with Boeotus, Mantitheus was brought before the Areopagus on this charge by Boeotus. The accusation was proved false beyond a doubt.[95]

Homicide cases (δίκαι φόνου) and those allied to them (e.g. φαρμάκων) could also be the instruments of false accusation. The prosecution of the choregus by Philocrates was of that character.[96] Perhaps the most famous case is that in which the sycophant Callimachus was involved.[97]

A sycophant could urge into litigation a person who had the right to bring a δίκη, by promising his assistance. His financial gain in such cases would be the remuneration that he received for this assistance. Melas persuaded Dicaeogenes to sue for the estate of his adoptive father and then gave him valuable aid when the case came to trial. The agreement in this instance was that he should receive a share of the proceeds if the suit was successful.[98] A somewhat similar transaction is related in the case *vs. Callicles*. The latter is said to have stooped to unscrupulous methods in his efforts at getting possession of a farm that belonged to his neighbor, the

[91] Isoc. 16. 1-2. The speaker is the younger Alcibiades.
[92] Isoc. 18, 52 ff.
[93] Jebb *Att. Or.* Vol. I, p. 277.
[94] Aesch. 2, 93; 3, 51.
[95] (Dem.) 40, 32.
[96] Ant. 6.
[97] Isoc. 18, 52. Vid. p. 78. Two speeches (3 and 4) of Lysias deal with this crime. Cf. also (Dem.) 59, 9.
[98] Isaeus 5, 7-9, 40.

speaker. He had brought several suits against the latter or against one of his slaves. He had also "suborned his cousin to claim it." The cousin evidently had legal right to enter the suit.[99] One need not assume that Callicles or his cousin are sycophants. They may have been respectable citizens. But the methods of which they are accused make it clear what unprincipled pettifoggers might do.[100]

### *The Sycophant as an Agent*

The sycophants' field of activity was not limited to such work as they did on their own initiative. Their services were also at the disposal of those who wished to hire them. They could be used as agents for various purposes: (1) to bring suits against personal or public enemies; (2) to introduce laws and decrees; (3) to act as advocates; (4) to serve as witnesses; (5) to bribe juries and ecclesiasts; (6) to use undue influence on officials; (7) to do work of more or less questionable nature, with which those who employed them did not desire to be openly connected, or which they were unable to do. Not all of these services were in themselves illegitimate or reprehensible; it is the professional character of the service that marks the sycophant in public estimation.

An easy way of avoiding the inconvenience that a public suit would entail was to hire some one to undertake it. This is well illustrated in *Apollodorus vs. Nicostratus*.[1] The litigious Apollodorus is anxious to prove that the motive for his ἀπογραφή against Nicostratus is personal revenge.[2] In proof of his assertion he cites the fact that he has brought the suit in his own name. By so doing he exposed himself to the chances of fine and partial disfranchisement.[3] This danger he might have avoided for he was not "unable for lack of friends and means to find a person to undertake the information."[4]

[99] 55, 1-2.

[100] DeVos (p. 30) thinks that the δίκη was a common method of attack when possible, but that the γραφή was preferred because the sycophant gained a greater reputation thereby; the jurors would be more concerned if they felt that the defendant was guilty of some attack "reipubl. instituta." It is undoubtedly true that the sycophant could appeal vigorously to the jurors as guardians of the constitution in a γραφή. The nature of the δίκη was however the chief hindrance.

[1] (Dem.) 53.

[2] In order to avoid the appearance of sycophancy.

[3] In case he failed to receive the necessary fifth of the votes.

[4] *Loc. cit.* 1 (Kennedy).

For such service the sycophant with his expert knowledge of the laws and the courts was the most desirable agent that could be procured. In many cases he would be more likely to be successful in the prosecution than his less experienced employer. Archedemus was chosen by Crito as his agent because he was ἱκανὸς εἰπεῖν τε καὶ πρᾶξαι.[5] The agent was also, to be sure, in danger of the fine and atimia. But the remuneration that he received for his services as agent would compensate him, in part at least, for the worst that might happen.[6] In some ways then it might be more lucrative for a sycophant to act as agent for others than to bring prosecution on his own account.

The sycophant was apparently most often hired for the bringing of "counter suits."[7] These were suits brought against an accuser or against some one who was expected to be an accuser. It was naturally desirable to have good grounds for starting such a case, but an utterly baseless charge might serve the purpose. The leading case of such a counter-suit is that of *Philocrates vs. the Choregus* already discussed.[8] The plaintiff was, as has been shown, a professional sycophant, who made a practice of attacking magistrates at the euthynae. A set of officials were facing trial on an eisangelia brought by the choregus. They were very anxious to dispose of the choregus so that he could not appear and accuse them when the case came to trial. Just on the eve of the trial very unusual circumstances made it possible for them to use Philocrates as their agent against the choregus. A young boy, the brother of Philocrates, who was a member of the chorus for which the choregus was responsible, suddenly died. Philocrates and the other relatives did not think of attaching any blame to the choregus. But the officials who were looking for a chance to get rid of the choregus saw an opportunity of doing so now. They employed Philocrates to accuse him of responsibility for the

[5] Xen. *Mem.* II, 9.4.

[6] Cf. note 12 below.

[7] Vid. Calhoun, *Athenian Clubs in Politics and Litigation*, p. 48.

[8] Ant. 6. An effort on the part of Midias to check Demosthenes' prosecution of him is exactly like this, except that he did not employ a professional sycophant in this case. Aristarchus, the son of Moschus, was accused of the murder of Nicodemus of Aphidna. Midias went to the relatives who had begun prosecution and offered them money if they would accuse Demosthenes of the murder. The embarrassment caused by this was considerable. Vid. Goodwin, *Demosthenes vs. Midias*, notes to 114, 117, for Demosthenes' part in this matter.

boy's death. Their scheme was unsuccessful however since Philocrates was unable to get the case entered with the Basileus.

Several months later, after Philocrates and the choregus had been reconciled, the former was again hired to attack the choregus on the same charge as before. The latter had detected another set of officials in the embezzlement of public funds. In the hope of escaping trial they paid Philocrates thirty minae to renew his prosecution of the choregus. The choregus was brought to trial and accordingly prevented from prosecuting the officials.[9] Philocrates' reputation as an unscrupulous litigant and blackmailer was probably the thing that called the attention of the two sets of officials to the possibility of using him as their hireling.

Another counter-suit brought by a sycophant as agent is mentioned in *Demosthenes vs. Midias*.[10] In order to create a sentiment against his prosecutor, Midias had hired "that rascal of all work, that ragamuffin Euctemon" to accuse him of desertion of post. This was solely for effect. Midias did not intend that the case should ever be brought to trial. He merely wanted Demosthenes to suffer from the notoriety that came to him from having his name publicly posted as a deserter.[11] In fact Euctemon dropped the proceedings and was accordingly partially disfranchised. No statement of the amount paid to Euctemon by Midias is made. However, since the failure to prosecute a public case after it was once begun entailed a fine of 1000 drachmas it is reasonable to suppose that the remuneration was more than sufficient to cover the fine.[12]

An instance alluded to in the case of *Theomnestus vs. Neaera et Stephanus* will show with what realism and enthusiasm a hired agent conducted a case.[13]

Cephisophon and Apollophanes were anxious to secure the banishment of Apollodorus. To bring this about they employed Ste-

[9] The prosecution of the officials was however carried on by some one else. Ant. 6,50.

[10] Dem. 21, 103.

[11] This was often the purpose of counter suits. Conviction or even the trial of the case was not important. The real effect desired was the discontinuance of the case that the counter suit was brought to meet.

[12] Marchant suggests that the 1000 drachmae paid by Callias to Cephisius were intended to defray the possible fine that he might incur if he failed to win the fifth of the votes in the indictment of Andocides. (Notes on And. I, 121.)

[13] (Dem.) 59,9-10. It will be remembered that the larger part of the speech was delivered by Apollodorus as *συνήγορος*.

phanus to manage the business. He was notorious for his ability in matters of this kind and would probably be more successful than they. If he was successful they would be saved from any notoriety that might grow out of the case.

Stephanus accused him of having dealt a blow to a slave woman from the results of which she died. "He suborned some slaves and got them to represent that they were Cyrenaeans, and gave notice to Apollodorus to appear on a charge of murder in the court of the Palladium. There he conducted the prosecution, and affirmed on oath that Apollodorus had killed the woman with his own hand, imprecating destruction upon himself and his race and his house, affirming facts which never took place, and which he never saw nor heard."[14]

During the course of the trial his perjury was revealed and the names of his employers disclosed. Needless to say, he lost the case.

The use of the courts as a political weapon also gave employment to the sycophant who was willing to act as agent.[15] This was especially true in the Fourth Century when the feeling between political parties was exceedingly strong. A convenient method of disposing of a political rival was to bring suit against him on some charge or other. The notorious Aristogiton served as the paid agent of the pro-Philip party in bringing seven γραφαί against Demosthenes and in two attacks at the euthynae.[16] His Graphe Paranomon against Hyperides after Chaeronea had undoubtedly a similar origin.[17] It is not probable that all the Graphae Paranomon for which the sycophant Theocrines was responsible were brought on his own initiative. The circumstances connected with his attack on the decree proposed by Thucydides make it clear that it was instigated by the party that favored Philip.[18] The fact that Theocrines devoted so much of his efforts to Graphae Paranomon made him a suitable agent for such work.

It is well known that some of the most bitter political speeches written by Demosthenes were delivered by otherwise unknown speakers. As justification of their suits they referred to the personal

[14] (Kennedy.)

[15] For the importance of the courts in the political field, vid. Headlam, *Election by Lot*, p. 35 ff.; Calhoun 98 ff.

[16] Dem. 25, 37.

[17] (Dem.) 26, 11.

[18] (Dem.) 58, 36 ff.

enmity that existed between them and their opponents, the targets of Demosthenes' pen. It is hardly likely that in the cases of *Euctemon et Diodorus vs. Androtion* and *vs. Timocrates*,[19] and that of *Euthycles vs. Aristocrates*,[20] the plaintiffs would have risked prosecution that entailed so many dangers, if their only compensation was the satisfaction of securing the conviction of their personal enemies. It is far more probable that men in the position in which Euctemon, Diodorus and Euthycles found themselves, let it be known that they could be employed to use their personal enmity[21] as an excuse for attacking certain men or certain policies. This seems to be clearly the case in the suits against Androtion and Timocrates, which really deal with the career of one man, Androtion. In availing himself of the services of such men Demosthenes was merely following the usual custom in Athens.[22]

Agents were also used to secure the introduction of laws and decrees. Leaders of rival political parties found this a convenient method of securing their desires without appearing in person. Timocrates is accused of having been hired by Androtion and his associates to introduce a law which operated in their behalf.[23] There is no reason for believing the statement false. "His public morality seems to have been such as to fit him for the part of jackal to Androtion."[24] He had often before drawn up decrees for hire[25] and was a thoroughly practised politician. He is described as the servant of Androtion and his comrades, and as a professional hireling.[26]

[19] Dem. 22 and 24.

[20] Dem. 23.

[21] "Personal enmity" may become a very flexible term under some circumstances.

[22] For a fuller statement of this attitude of Demosthenes and a justification of the method used, vid. Wayte's intro. to the speeches *vs. Androtion and Timocrates*, p. XXXII ff. Cf. also Kennedy intro. p. 164, Vol. III, for a statement about Euthycles.

[23] Dem. 24, 3. The fact that charges of this sort were made at all, shows that the habit was a common one.

[24] Wayte intro. xl, w. ref. to 161.

[25] Dem. 24, 66, 203.

[26] *Ibid.* 14, 158, 200. This Timocrates is undoubtedly the same as the one mentioned in Dem. 39 and 40 as a member of the club of Menecles and Mnesicles. He was one of the associates who gave false testimony for Boeotus. This membership explains much of his activity in litigation. Cf. Schaefer, III, 2, app. p. 218. Calhoun 80, n. 1. He may be the same as the man by that name who acted as a paid supporter of Midias in his litigation with Demosthenes.

As advocate (*συνήγορος*) the unscrupulous and litigious person might be a very valuable helper. Such service was more free from danger than any other that he could render in court. The advocate was in no fear of prosecution for perjury as a witness was.[27] How desirable assistance of this kind was, is seen from *Demosthenes vs. Midias*.[28] The former says that the majority of men are at a disadvantage when compared with men like Midias. He is rich, and the rich always have plenty of advocates ready to defend them when they are on trial. Although the Athenian law forbade the acceptance of remuneration for service[29] of this kind, it is plain from this that the hiring of advocates was not at all unusual. A statement of Lycurgus shows how common the practice was.[30] "I am surprised most of all at those who are not related by either ties of blood or friendship, but still act as hired advocates from time to time[31] for those who are on trial." Advocacy was apparently becoming professional.

In the prosecution of Andocides, Cephisius the main speaker was assisted by at least two advocates (*συνήγοροι*) who belonged to the cabal against the defendant. Of these Epichares, a professional sycophant, was said to have been paid for his services.[32] "Three talents had been pledged for the 'speakers' if they would save Ergocles" who was on trial for embezzlement of public funds.[33] These "speakers" were probably prominent demagogues who were willing to hire themselves out as advocates. That they expected to "save him" by speaking in his behalf is clear from the statement that they saw the temper of the jurors and feared to appear in court.

[27] A litigant who was unable to manage his own case, either because of inexperience or inability in legal affairs, was permitted to ask the court to allow his friends to assist him. Such assistants were termed *συνήγοροι*. For complete statements about "advocates" vid. Bonner, *Evidence* 11-12, 82; cf. also Calhoun p. 85 ff.; vid. also p. 64 below for this activity of sycophants.

[28] Dem. 21, 112.

[29] (Dem.) 46, 26.

[30] *c. Leoc.* 138.

[31] Whether *ἀεί* means "always" or, as often, "from time to time" it indicates a marked tendency towards professionalism.

[32] 1. 101. Advocates are suggested in And. 4, 15. "Furthermore he is not undefended (*ἔρημος*) nor *εὐδίκητος*, since, owing to his wealth, he has many who will come to his aid." Cf. also (Dem.) 44. 3, where the opponents are accused of hiring advocates.

[33] Lys. 29.6.

Hired witnesses were even more common than hired advocates. According to Demosthenes the rich were at no loss for witnesses, just as they were at no loss for advocates.[34]

Polyeuctus, Timocrates and Euctemon were paid witnesses in the employ of Midias against Demosthenes, in addition to those that his club furnished.[35] Onetor is said to have supplied funds to his brother-in-law Aphobus for bribing witnesses.[36] Demosthenes accuses Aeschines of using funds that he received from Philip of Macedon in hiring men to give testimony for him.[37]

Many of these hired witnesses probably gave testimony only on some particular case and never appeared as witnesses again. They were descending to the methods of the sycophant for that occasion only. There were some however who made a practice of acting as witnesses and were virtually professionals. Such were the members of the clubs of Menecles and Mnesicles and of Melas. They gave testimony for their own associates when it was needed and undoubtedly were at the service of others who wished to hire them. Melas and his club gave financial support and their services as witnesses to Dicaeogenes on the understanding that they receive a share of the estate for which he was suing, if he was successful.[38]

Naturally purchased testimony was as a rule perjured. Most of the professional witnesses must have been in danger of a *δίκη ψευδομαρτυρίων*. Conviction on this charge meant a fine and possibly a partial disfranchisement. Three convictions resulted in complete atimia.[39] In spite of this there can be no doubt that the amount of perjured testimony in Athens was very large, even if we allow for exaggeration on the part of the orators in regard to it. Much of this must have been supplied by paid witnesses.[40]

The bribing of jurors and ecclesiasts was often accomplished through paid agents. In fact there existed a class of men who, whether they engaged in other kinds of practices common to sycophants or not, had become known as professional jury-bribers and

[34] Dem. 21, 112. Xen. Mem. IV, 4, 11 *ἤσθησαι οὖν πώποτέ μου ἢ ψευδομαρτυροῦντος ἢ συκοφαντοῦντος . . .*;

[35] Dem. 21, 139.

[36] Dem. 29, 28.

[37] Dem. 19, 216.

[38] Vid. Section on *Clubs and Combinations of Sycophants*, p. 63 ff.

[39] Vid. Bonner *Evidence* p. 91, note 9, w. ref. cited. Cf. *Cl. Phil.* Vol. XI, 365, Calhoun *Ἐπίσκηψις* and the *Δίκη ψευδομαρτυρίων*.

[40] Cf. Calhoun *Athenian Clubs*, p. 77 ff.

bribers of ecclesiasts.[41] Such professionals could accomplish the desired results so much more easily than inexperienced men that they must have been in great demand when anything of that sort was to be done. Xenotimus[42] and Nicostratus[43] are the best examples of this profession. The former was available for other kinds of questionable work. He is described as the one who "corrupts laws, bribes juries, outrages magistrates and is the cause of all sorts of evil." The litigious Callimachus found him a suitable assistant in connection with one of his false accusations.[44] He had entered suit against a man in violation of the Amnesty. The defendant entered the plea that the case was not maintainable. The natural course for Callimachus to follow was to bring a δίκη ψευδομαρτυρίων against the witness that the defendant produced in support of his plea (παραγραφή). But he had no confidence in his case and feared that he would lose the accusation for perjury and be fined. He therefore, with the assistance of Xenotimus, persuaded the magistrate to let him avoid the usual procedure and bring a new suit against the defendant on the same charge as before.

An incident somewhat similar to this is narrated in *Epichares vs. Theocrines*.[45] The father of the latter used the services of Ctesicles, the metic, a λογογράφος, who was in charge of the case of his opponent, to avoid paying a debt that was due the state from a court judgment and to prevent the introduction of his name as a state debtor.

There were many questionable transactions with which a more or less prominent Athenian would not care to be connected openly. He might be unable to accomplish the matter by his own efforts, or he might prefer to keep in the background because of the stigma attached to participation in the affair. For such a task the sycophant was valuable. His unscrupulousness would permit him to go to any extreme to carry a matter through, and his familiarity with the tricks of litigation enabled him to manage the legal side if any trouble of that nature arose.

[41] *Ibid.* p. 75 ff.

[42] Isoc. 18, 12.

[43] Aesch. 1, 86. Cf. Calhoun *Athenian Clubs*, p. 76.

[44] Isoc. 18, 11 ff.

[45] (Dem.) 58, 19. So Nicostratus (Dem. 53, 14) was accused by Apollodorus of having joined the enemies of Apollodorus and obtained a judgment against him "through Lycidas the miller." Sandys remarks, "This Lycidas was either a merely nominal accuser or possibly a venal arbitrator."

Bankers seem to have found considerable use for such agents. Pythodorus was in the regular employ of Pasion.[46] He secured patrons for his employer's bank and introduced them to him. He "would do and say anything for Pasion."[47] It is very probable that it was with his assistance that Pasion succeeded in tampering with the contract that he and the stranger from the Pontus had made and deposited with a third party.[48] That he would not hesitate to lend his efforts to such a deed is shown by the fact that he had at one time broken open the voting urns and changed the names of those nominated for judges in a dramatic contest.[49]

Phormio, Pasion's successor in the banking business, employed Stephanus as his "agent."[50] On one occasion, when Phormio's ships were detained in Byzantium, Stephanus went there and pleaded Phormio's cause against the Chalcedonians. This use of an assistant to represent a merchant in foreign parts was customary. Aristophon was hired by Demon and his business partner to transact business for them in Cephallenia when the ship on which they had loaned money was in danger of being kept from returning to Athens.[51] Such service as this is entirely proper, and no one could afford to render it without remuneration. But the fact that Stephanus was prosecuted for bearing false witness in the interest of Phormio, and charged with stealing a deposition also in his employer's interest shows that he was thoroughly unscrupulous.[52] So also Aristophon is called one of μοχθηρῶν ἀνθρώπων who hang about the Peiraeus waiting for employment of this sort[51]. His real character is shown by the fact that he sold out his employer.

When Socrates' friends were endeavoring to induce him to break prison and leave Athens they did not intend to conduct him out of Attica personally.[53] They planned to use for this purpose the services of men expert in such work, and who were willing to consider the slight compensation they received sufficient gain for any difficulty that might arise. Trouble from the ever watchful sycophants was expected. Crito contemplates buying these off. No doubt their agents would be prepared to manage this for them.[54]

[46] Isoc. 17, 4.
[47] *Ibid.* 33-34.
[48] *Ibid.* 23.
[49] *Ibid.* 33-34.
[50] Dem. 45, 64.
[51] Dem. 32, 10-12.
[52] Dem. 45, 57-58.
[53] Plato *Crito* 44 E-45C.
[54] For the use of one sycophant to outwit another vid. Xen. *Mem.* II, 9.

The method followed by Callimachus in one of his suits illustrates another use for which men of this character could be employed. Just before the case in question was to come to trial he sent his "friends" (*τῶν δὲ χρωμένων τινές*) around to talk to the defendant and frighten him into making a settlement by emphasizing the dangers of a trial and the ability of the plaintiff. The term "friends" is very elastic. These men must have been of the same character as Callimachus even if they were personal friends or club members. The phraseology implies that these methods were frequently used to influence defendants. Professional sycophants probably resorted to such means often in order to extort money. They would find it exceedingly easy to employ other sycophants to assist them in this way.[55]

Even "information" could be purchased. The notorious Dioclides was hired to make his famous *μήνυσις* during the excitement following the mutilation of the Hermae. The remuneration must have been high. Otherwise he would not have risked the dangers of false information.[56]

An agent was employed most often, no doubt, to manage some particular case. Under some circumstances however, the necessity might arise of having a permanent assistant of this sort. Such a situation is described by Xenophon.[57]

Crito, the old friend of Socrates, had found that it was impossible for a man of means to live at Athens without continual danger of law-suits.[58] Socrates advised him to secure the services of a good "watch dog" who would keep him free from the attacks of these wolves (sycophants). Acting on this suggestion they looked for a trustworthy agent, and found one in the poor but able Archedemus.[59]

[55] Isoc. 18, 9-10.

[56] And. I. 65.

[57] Xen. *Mem.* II, 9.

[58] Crito was but one of the many *ἀπράγμονες* who found life in Athens unbearable due to the troubles caused by the sycophants.

[59] Marshall (Notes ad loc.) suggests that this was probably the Archedemus who took such an active part against the generals after the battle of Arginusae (Xen. *Hell.* I, 7, 2.). This is a plausible suggestion. His ingenuity and ability certainly fitted him to be a prominent demagogue.

There is nothing in Crito's use of Archedemus, or in the latter's management of Crito's affairs that is reprehensible. For that reason it is but fair to admit that while employed by Crito he was merely employing the tricks of a sycophant. It was, however, his reputation for shrewdness in legal trickery that made him

He was glad to become Crito's agent. In fact he was but one of many who would have been ready to serve Crito in this way. His method of defending his employer was to turn the sycophants' arts back on them. He succeeded in discovering misdeeds of which he could accuse them, and hunted up their personal enemies to help him in his attacks. Then when one of them opened suit against Crito he started a counter suit against him on the basis of the information he had already gathered. This scheme so dismayed the sycophants that they were willing to drop their prosecutions of Crito and settle on any terms that Archedemus might name, even if this meant the paying of money. He forced the sycophants to pay for immunity just as blackmailers did. He was so successful that Crito's friends asked for the loan of the "watch-dog" to protect them too. Glad to favor Crito, whom he considered a valuable patron, Archedemus gave them his services and so Crito and his friends lived ἐν ἡσυχίᾳ.

Xenophon's description of the situation makes it plain that Archedemus was at any time ready to use his art for the interest of Crito and his friends. In this sense it can be said that he was employed by Crito as his regular and permanent agent. The method by which Crito kept him in his service is interesting. He did his utmost to make him feel friendly towards him. He sent him all sorts of produce from his farm, invited him to the sacrifices that he celebrated and "paid him similar attentions." Undoubtedly he received money for his services too. Archedemus felt highly honored by the attentions of Crito. In fact he asserted, when taunted about his servility, that he preferred to be the hireling of such χρηστοί.

Pythodorus[60] and Stephanus[61] seem to have been regularly employed agents as Archedemus was. Stephanus was apparently very familiar with the duties that such an agent of a banker would have. He had been the employee of another banker Aristolochus before he was hired by Phormio.[62]

The employing of an agent was however not without its dangers. An unscrupulous person, after becoming familiar with his employer's business and after learning his weak points was in a position to

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the logical candidate for the position of "watch-dog." To the Athenian his position as the paid employee of Crito was enough to confuse him with the ordinary sycophant.

[60] Isoc. 17, *passim*.

[61] Dem. 45, 64 *et passim*.

[62] Dem. 45, 63.

turn on him and attack him, just as the sycophants that he was attempting to avoid. This was one of the objections that Crito offered to Socrates' suggestion of hiring a "watch-dog," and partly explains Crito's anxiety in keeping Archedemus friendly to him.[63]

There can be no doubt that this was a problem that faced many wealthy employers. The sycophant Aristophon became a turncoat against the interests of Demon,[64] and Aristogiton is described as an unreliable employee who was ready to sell himself to the other side.[65]

### *Clubs and Combinations of Sycophants*

The importance of Athenian Clubs in the legal and political field has been adequately discussed by Calhoun.[1] He has shown how the members of these organizations assisted their associates in law-suits by "taking advantage of the opportunities which the Athenian court system afforded."[2] Roughly speaking this aid to litigants was of two kinds, money contributions[3] and personal service.[4] The latter was rendered in many ways.

Two effective methods of using the courts to aid their friends were "friendly prosecutions" and "counter suits."[5] Out of court, influence was used in creating a sentiment in favor of their comrades or against the opponents, in dissuading accusers and their advocates,[6] in obtaining information regarding the opponent's case or even in measures as violent as assassination. If a case came to trial they were ready to bring influence to bear on officials and jury, to suppress evidence and give false testimony when necessary or to appear as advocates.

In the political field club members could aid one another by the use of litigation as a political weapon.[7] Their most effective assistance however was rendered by the skilful manipulation of deliberative assemblies.[8]

[63] Xen. *Mem.* II, 9, 3.

[64] Dem. 32, 10 ff.

[65] Dem. 25, 46-47.

[1] *Athenian Clubs in Politics and Litigation*, (Chicago 1913). DeVos has a rather unsatisfactory chapter on this topic, p. 49.

[2] *Ibid.* p. 40. [3] P. 43.

[4] P. 46.

[5] P. 47-48. Vid. p. 49 above for fuller discussion.

[6] Pp. 56-96. [7] Pp. 98-107.

[8] P. 126.

Since club affiliation was so valuable it was but natural that sycophants also should combine with the purpose of increasing the effectiveness with which they worked individually. Calhoun refers to such organizations of sycophants as "existing for the profits which they enabled their members to make by various kinds of sharp practice in the courts."[9]

The most important club of sycophants (ἐργαστήριον συκοφαντῶν)[10] of which we have any knowledge is that of Menecles and Mnesicles.[11] Four other members are known: Boeotus,[12] Timocrates, Crito and

[9] P. 23.

[10] Lipsius (*A. R.* 909, n. 33) disposes of this club in summary fashion: "Nichts mit Hetairien hat das ἐργαστήριον συκοφαντῶν bei Demosth. g. Boiot. I 2 S. 995, 8. II 9 S. 1010, 24 (vgl. g. Pant. 39 S. 978, 6. g. Zenoth. 10 S. 885 i. A.) zu tun." That, however, is merely a matter of terminology. A Club of sycophants is undoubtedly somewhat different from an ἑταιρεία in its original and limited sense. In this sense it implies an organization of wealthy and influential (cf. Calhoun 23) men, whom similarity of tastes and politics have drawn together. Social features are prominent; the club oath is of importance; members are approximately of the same age; the club has definite political tendencies. (Cf. Calhoun 10-39.)

In a combination of Sycophants political convictions, age qualifications and initiations may be absent. Social features probably exist as they might in any organized group. Some form of oath or pledge would be natural. Mutual interest and similarity of tastes there surely would be. They unquestionably have all features essential to making them permanent clubs whether the term ἑταιρεία is applied to them or not. (Cf. Calhoun 23, 28, 80.)

Such organizations of sycophants would rarely, if ever, receive the title of ἑταιρεία in the orators, even if they deserved it. When mentioned at all they are the subject of attack. The speakers therefore refuse to use the more respectable and dignified "Club." They prefer to brand them as "gangs" (ἐργαστήρια).

The ἐργαστήριον that Lipsius refuses to consider an ἑταιρεία was undoubtedly a permanent organization. It is described as a well known and definitely organized group of men. Menecles and Mnesicles are its leaders; other members are mentioned; Boeotus aids these men regularly in their suits, just as they aid him; their regular business is litigation. (Calhoun 95 and note.)

To be consistent, Lipsius should also exclude the clubs of Theocrines and of Melas. To these he raises no objection. Perhaps he distinguishes these from the organization headed by Menecles and Mnesicles because they are not called ἐργαστήριον. They appear as οἱ μετὰ τούτου (Dem.) 58.7 or οἱ ἐκείνου φίλοι (Isaeus 5.8) instead. But the ἐργαστήριον of Menecles and Mnesicles has a similar designation, οἱ περὶ κεῖνον (Dem. 39.13) referring to Menecles.

Any such distinction based on the mere name seems trivial. Surely description of the activities of a group of men is more valuable in deciding its status than terminology.

[11] Dem. 39, 2, 13-14; (40, 8-9).

[12] Dem. 39, 2; (40, 9).

Promachus.[13] This club was composed of men who made a business of bringing all manner of suits from which they thought they could derive some gain. It so happens that all the definite information that is known of their activity centers about the litigation in which Boeotus was interested. This will be discussed in some detail to show what type of work an apparently typical club of professional litigants did.

Boeotus was one of the sons of Mantias and his concubine Plangon.[14] When he came of age he began proceedings against his father with a view to establishing his right to Athenian citizenship. To gain his point he availed himself of the services of the club of Menicles and Mnesicles. It is not certain whether he joined the club at that time or whether he was already a member. It seems fairly clear that the suit was suggested by the club members.[15] Mantias dreaded the trial. He had reason to fear that some of his political enemies would assist Boeotus. Menecles realized that it was possible to take advantage of the reluctance of Mantias by proposing a settlement out of court. With the assistance of Plangon he accordingly contrived a scheme to which Mantias blindly consented. Plangon offered to induce her brothers to adopt Boeotus and his younger brother. She further agreed that if Mantias would challenge her before the arbitrator to swear that the young men were his sons, she would decline the challenge. When they came before the arbitrator and Mantias challenged her she broke the solemn oath that she had taken when she made her promise to him and swore that the boys were his sons. This left no course open to Mantias but to acknowledge them as his sons and allow them to be admitted to the rights of citizenship. Some time after this Boeotus succeeded in getting the townsmen of Thoricus to register him under the name of Mantitheus.[16] He was dissatisfied with the name his father had given him. Mantitheus was his paternal grandfather's name and had already been given by Mantias to his eldest son by his wife, the daughter of Polyaratus. Boeotus claimed the right to the name on the ground that he was the elder of the two.

[13] *Ibid.* (40, 28, 59-60). Cf. Calhoun 28 and 80 w. notes. Calhoun does not mention Promachus. He is however mentioned in (Dem.) 40, 28, along with Timocrates.

[14] Dem. 39, 2 ff.; (40, 9-11, *passim.*).

[15] Vid. Calhoun pp. 80, 95-96.

[16] (Dem.) 40, 11; 39, 4-5, 38-39.

After the death of Mantias the inheritance was divided between the two sets of children, and Mantitheus claimed a talent as the marriage portion of his mother.[17] Boeotus entered a counter claim for the same amount, as the dowry of Plangon. The matter went before an arbitrator for settlement. The trial of the case was postponed so long, owing to delays introduced by Boeotus, that the arbitrator died before any decision was reached. Boeotus commenced action again and Mantitheus responded with a counter claim. These two suits were arbitrated also. In both Boeotus lost; in the one in which he was plaintiff he lost by the arbitrator's decision. He did not appeal the case because he knew that his chances of winning were very slight. In the one in which he was defendant he lost by default. The method that he employed in setting this decision aside is a striking example of legal quibbling. He insisted that Mantitheus had not received a decision against him at all. A decision had been given against Boeotus. But he was not Boeotus but Mantitheus.[18]

The real Mantitheus followed the only course open to him. He brought suit against Boeotus under the name of Mantitheus. Boeotus replied with another counter suit. This time he did not claim the dowry of Plangon.[19] The arbitrator's decision apparently prevented him from doing that. But he trumped up a demand for some other property, in order to discourage Mantitheus by a counter suit. The speech "For the Dowry" was delivered by Mantitheus in the prosecution of this case against Boeotus.[20]

Boeotus' assumption of the name Mantitheus had led to so much inconvenience for the original Mantitheus that he was forced to bring suit against Boeotus in the effort to establish by court decision the sole right to the name.[21] At first Boeotus defended the action and asked for delay. When delay was no longer possible he allowed an award to be given against him for non-appearance. He then got a ruling to set aside this award.[22]

Another suit was trumped up against Mantitheus in the course of his long litigation with Boeotus. The latter managed to get into a

[17] *Ibid.* 40, 14 ff. Cf. intro. in Paley and Sandys for the various views on all the litigation that was carried on between the two; Cf. also Kennedy's intro.

[18] *Ibid.* 40, 18.

[19] *Ibid.* 40, 3, 17, 18.

[20] *Ibid.* 40.

[21] The result is somewhat doubtful. There are reasons for believing that Mantitheus did not win eventually. He nowhere says that he did. Vid. Paley and Sandys intro. to 39, p. 139.

[22] Dem. 39, 37-38.

quarrel with Mantitheus and so aroused him that they came to blows. He then cut his own scalp and summoned Mantitheus before the Areopagus on a charge of felonious wounding. His intention was to force Mantitheus, by this suit, to quit Athens and drop the case that he was prosecuting against him at that time. The only thing that saved Mantitheus was the voluntary testimony of a physician, who told the court that the schemers had endeavored to induce him to make an incision in Boeotus' scalp. In this way the plot was laid bare.[23]

Menecles was responsible for the scheme by which Mantias was forced to acknowledge Boeotus as his son; the club members gave false testimony for Boeotus in the suit for the dowry, one of them with regard to two different matters;[24] the trick by which Mantitheus was charged with felonious wounding originated with Menecles.[25] There is every reason for believing that to a great extent the numerous evasions, delays, quibbles and counter suits that Boeotus introduced during the long litigation between him and Mantitheus, originated with the club. In fact Menecles is accused of being "the architect of all these plots."[23]

In return for their services as witnesses the club members received like assistance from Boeotus.[25] He regularly aided his associates by perjured testimony. This was regarded as his contribution to the club, like the money contributions made by members of an eranus.

They may have received a financial benefit also. It is hardly likely that they would have undertaken so much dangerous work without the prospects of a share in the proceeds from the suits when Boeotus was successful.[26]

Another combination of sycophants that seems to have been of considerable importance was that of Melas, the Egyptian.[27] Information about this club is rather scanty but sheds some light on the methods of these organizations.

Dicaeogenes, who had inherited one-third of the estate of his adoptive father, was persuaded by Melas, to sue for the entire property. He was in the habit of following the advice of Melas in

[23] (Dem.) 40, 32-33. Vid. p. 47 above for discussion of the relatively large number of false accusations of this nature.

[24] *Ibid.* 40, 28, 58-59.

[25] Dem. 39, 18; cf. (40, 28, 58-59.).

[26] Cf. the plan for assistance to be given Dicaeogenes by the Club of Melas.

[27] Isaeus 5, 7-9, 40.

other matters also. As a business venture, the members of the club of Melas advanced money to Dicaeogenes, either for his own use or for the prosecution of the case. The understanding was that they should share the proceeds if he established his claim. In addition to the financial assistance, the club members furnished him with their services as witnesses.[28] They were in the habit of giving false testimony for their own comrades just as the members of the club of Menecles and Mnesecles. They are said to have taken advantage of the city's difficulties to gain other peoples' property.[29]

No doubt the services of members of these clubs were at the disposal of anyone willing to pay for them. It is not improbable that Melas and Menecles made a business of supplying such professional witnesses from their clubs.[29]

The professional sycophant Theocrines belonged to a club that was without doubt composed of others of that profession. The members were said to follow the same occupations and share the gains.[30] In the case of *Epichares vs. Theocrines* they had dissuaded the advocates that Epichares had expected to assist him in his prosecution of Theocrines so that he found himself absolutely unaided in the suit. They had also attempted by threats and persuasion (bribery) to dissuade witnesses from testifying. Members of the club were expected to appear as advocates for their associate Theocrines.[31] It would be even easier to render such service than to act as witnesses and no doubt the associates frequently helped each other in this way. Professional advocates as well as professional witnesses could therefore undoubtedly be obtained from the clubs of sycophants.[32]

[28] *Ibid.* 7, 40. For the thought cf. Isoc. 15, 241.

[29] Cf. Calhoun p. 80-81.

[30] (Dem.) 58, 39-40. De Vos is not familiar with the best known clubs of Sycophants but he does devote some space to this one in his dissertation, in the chap. on "Consociationes." p. 49.

[31] *Ibid.* 4, 7, 42. It is said that Demosthenes was one of those who had withdrawn his promised assistance, because he saw that the prosecution had been begun and that in this way he was relieved from the attacks of Theocrines. The latter had apparently been harrassing Demosthenes with threats of prosecution. The accusation that Demosthenes had left Epichares unaided may be true. Cf. Calhoun p. 53.

[32] For fuller discussion vid. section on "Sycophant as Agent p. 53." Cf. also Calhoun 85-87. It may be that the club to which Pantaenetus belonged was a Club of Sycophants. Their methods correspond to the methods of these organizations and they are referred to as ἐργαστήριον τῶν συνεστώτων (Dem. 37, 39). The language used implies that they were assisting him as advocates and witnesses. (Dem. 37, 48).

The language of the orators leaves no doubt as to the existence of professional jury bribers. The best known examples are Xenotimus and Nicostratus.[33] The former is also described in no uncertain terms as a fit tool for all sorts of underhanded dealings. Nicostratus was also a professional briber of ecclesiasts. In the bribing of jurors or eccleisasts it is evident that one or two men would be unable to do effective work. The task required organization, and it is fair to assume that such men as Xenotimus and Nicostratus belonged to combinations that were willing to sell their services as bribers. These organizations may very well have engaged in other lines of sycophancy also.

There was another club the members of which could be hired to act as agents. The language employed in describing the combination, *ἐργαστήριον μοχθηρῶν ἀνθρώπων συνεστηκότων*, suggests that this work was usually of questionable character.[34] This particular organization was apparently extremely well known in Athens. Its members hung around the Peiraeus looking for employment. They were familiar with the business of the city and especially with the foreign trade carried on in the Peiraeus. The only member of this combination whose name is known is Aristophon. He had achieved notoriety in the management of the case of certain Miccalion. He was later employed by Demon, the uncle of Demosthenes, and his business partner, to represent their interests in a difficulty that had arisen about a ship that was carrying a cargo on which they had loaned money. The vessel was on its way back to Athens from Sicily. After barely escaping shipwreck due to the rascality of Zenothemis the supercargo, and Hegestratus the shipowner, it arrived at last in the harbor of Cephallenia.[35] There Zenothemis tried to induce the authorities to send the vessel to Massilia on the ground that he came from there and the cargo belonged to him and should go there. It was at this juncture that Demon and his partner in some way

[33] Vid. Section on "Sycophant as Agent" pp. 54-55. Isoc. 18, 11-12; Aesch. 1, 86. Cf. Calhoun 75 ff.; 118.

[34] Dem. 32, 10-11. Calhoun refers to this combination as an "organization of grain dealers and traders in the Peiraeus, who took part in litigation on occasion." (P. 95) It is not necessary to suppose that they were merchants. Their familiarity with the business can be otherwise explained. Merchants and other business men who invested their money in "bottomry loans" would always need agents. Such could be supplied from men who studied the conditions in the sea trade, and who were in no sense merchants or traders.

[35] Dem. 32, 4 ff.

learned of the danger to their investment. They hired Aristophon to go to Cephallenia and see that the vessel was sent back to Athens. He was successful. But when the vessel reached Athens it was found that he had sold himself to the other side. For, supported by Aristophon, Zenothemis laid claim to the grain that the vessel brought, saying that he had loaned money on it to the owner Hegestratus. It seems that Aristophon, ever alive to the chances of making money by his tricks, had discovered the difficulty in which Zenothemis found himself when the ship was sent back to Athens, and suggested to him the course of action that was followed. It is doubtful if Zenothemis, who was guilty of trying to sink the vessel, would have gone to Athens if he had not attached to himself this sycophant. The latter saw a chance of making a second gain out of the matter. He had certainly been paid before he left Athens to act as Demon's representative. He is said to be the manager of the whole scheme that Zenothemis put into operation when he arrived in Athens.[36] As Zenothemis was a foreigner[37] he would probably need assistance at every turn, and the aid that Aristophon was able to render was very essential. Demon and Protus, the man who had borrowed the money with which the cargo had been bought in Sicily, were forced to eject Zenothemis from possession of the grain.[38] He then brought suit against each of them separately. Aristophon and Zenothemis had been trying all the time to come to terms with Protus. He held out against them until he saw that the drop in the price of grain would make his profits small even if he won in the suit that Zenothemis had brought.[38] Then he compromised the matter and consented to let the judgment be given against him by default. He must have been paid for this concession. This arrangement was without doubt planned by the sycophant and Zenothemis. They saw that it would be excellent evidence to use in the case against Demon if they could point to the failure of Protus to appear and defend himself in a similar case.

Agoratus and Theocritus who worked together as agents for the pro-Spartan party at Athens in 403 B.C. may have belonged to a combination like this one. The language used in describing their relationship with one another suggests close affiliation.[39]

[36] *Ibid.* 11, 24.
[37] Cf. Dem. 32, 5, 8, 29.
[38] *Ibid.* 24-26.
[39] Lys. 13, 19 and passim.

Nothing could be more natural than such combinations of sycophants. There was a natural bond of sympathy between men of this type who made it their business to prey on society. The superior advantages gained by combination would soon tend to make them pool their interests. The resulting organization might be of more or less permanent nature. The clubs of Menecles, and of Melas were clearly permanent organizations.[40] The features common to other clubs may or may not have been present. They would of course have no political tendencies.[41] Some of the social features seem to have been common. The club of Menecles and Mnesecles held revels in the house of Boeotus[42] and that to which Theocrines belonged kept feasts and sacrifices.[43]

Temporary cabals were, of course, equally effective for the prosecution of some particular case. The alliance of Callias, Meletus, Agyrrhius, Cephisius and Epichares against Andocides is the best known. Of these, Epichares, at least, was a professional sycophant. The methods of this combination were exactly like those of the clubs that have been discussed. One man, Cephisius, was chosen to lodge the endeixis; the others, and perhaps Cephisius too, contributed money to assist in the prosecution. Callias gave 1000 drachmae. In addition to the money contributions they assisted Cephisius by acting as witnesses and advocates.[44]

There is nothing to indicate the number of permanent clubs of sycophants in Athens. "There were probably few, but unusually effective, since their services were at the disposal of any one."[45]

It was natural that these organizations should endeavor to cover up their methods as much as possible. This effort is indicated in *Epichares vs. Theocrines*. "I fancy however, men of the jury, that you are quite alive to the nature of these men's excuses and their accusations and pretended quarrels. For you have seen them often enough in the courts and on the platform professing to be personal enemies, and then in private following the same occupations and shar-

[40] Cf. Calhoun p. 95 and notes.

[41] Calhoun p. 23.

[42] (Dem.) 40, 57; cf. Calhoun p. 25.

[43] (Dem.) 58, 40. There may have even been an age qualification. Timocrates is mentioned as an age-fellow of Boeotus. (Dem.) 40, 59; Calhoun, p. 28.

[44] And. 1, 121.

[45] Calhoun p. 96. The evidence seems insufficient for assuming that the group mentioned in Lys. 24, 19 is an organization of sycophants, as Calhoun does p. 96.

ing their gains; at one time bespattering each other with the foulest insult and abuse, and in a little time after feasting together and taking part in the same sacrifices."[46]

### *The Sycophant Among the Allies*[1]

The development of the Athenian Empire increased the number of opportunities that the sycophant had for his activities. He was more successful among the allies than in his attacks on Athenian citizens.[2]

One of the methods employed by Athens in the government of the subject states was to require the allies to come to Athens for legal settlement of disputes.[3] The advantages of this for the city are well, if sarcastically, described by the author of the Xenophontic Politeia: The state received considerable income from the harbor dues that the allies must pay on their ships when they reached the Peiraeus; people who had lodging houses to rent or vehicles or slaves for hire reaped a rich harvest;[4] since a man would frequently be compelled to stay considerable time in Athens before his business could be finished,[5] this form of income was no mean thing; it was moreover an easy way of governing; the demus sat at home and managed its subjects without the necessity of leaving the city. If the allies had been allowed to try cases at home only official representatives of Athens would come into contact with the subjects and they alone would

[46] (Dem.) 58, 39-40.

[1] De Vos 40 ff., discusses this field of activity, but very incompletely.

[2] "Even inhabitants of towns around Athens suffered more than the Athenians themselves," De Vos 8.

[3] (Xen.) *Polity of the Athenians.* I, 16.

Athens did not content herself with the legal management of all matters relating to the Confederacy. She gradually drew away from the subject states the jurisdiction in all important cases. The courts in these allied states had jurisdiction only in those cases which affected their own citizens. They could not inflict the death penalty, exile or atimia. Such cases had to be brought to Athens. The courts of the individual states kept only matters of slight importance under their jurisdiction. Minor matters could not, of course, be brought to Athens for settlement, since her courts were too busy. Busolt, *Griechische Geschichte,* III, 1, 230 ff.

[4] *Ibid.* I, 16 ff. Szanto (*Zum Gerichtswesen der Attischen Bundesgenossen. Athen. Mitt.*, Vol. XVI, 31 ff.) is more optimistic than the author of the Polity, He is of the opinion that the purpose was to give the allies an opportunity to enjoy the blessings of a well developed legal system.

[5] *Ibid.* III, 1.

receive homage; as it was the allies flattered the ears of the demus in the courts, made every effort to show the people obeisance and were really their slaves.[6]

One of the most important gains that the system brought was the fact that the democracy obtained the chance to lend support to kindred governments in the allied states. There was natural sympathy between the oligarchs in the city and among the allies. A similar sympathy existed between the supporters of democracy.[7] So long as the wealthy and oligarchic were influential in the allied states, there was danger of anti-democratic sentiment if not open revolt against Athens. The courts served as a means of checking those who were not "of the demus." In somewhat exaggerated language the writer of the Politeia states that in the courts the Athenians "saved those who were partisans of the demus and destroyed the others."[8]

This attitude could not fail to encourage the sycophant to extreme activity in persecuting the wealthy and non-democratic of the allies. "One might think," says the writer of the Politeia," that it is an advantage for the allies to be wealthy and be able to pay large sums to Athens in the form of tribute. But the demus does not think so. It prefers that the Athenians shall individually have the allies' possessions. If the latter have only what they need for their existence and their business, they are not able to make plots against Athens."[9] This implies that the individual Athenians were encouraged to extort money from the allies in any way. In such a soil the sycophant's business would be especially thriving.[10]

Many considerations made it almost inevitable that threats of prosecution against the subject allies would result in the paying of hush-money; the inconvenience entailed by a journey to Athens and the expense of staying there until the case was finished were great. As a result of the congestion of business a suit might be delayed for a long time. In fact the author of the Politeia states that men sometimes waited a year in Athens to get a matter of business settled. This period might be shortened by bribing the officials to

[6] *Ibid.* I, 17-18; 14-15.
[7] *Ibid.* I, 14-15.
[8] *Ibid.* I, 16.
[9] *Ibid.* I, 15.
[10] I, 14. Instead of *οἱ πλέοντες συκοφαντοῦσιν*, Kalinka (notes ad loc.) reads *οἱ πλέονες*. If this is right, as it may well be, it implies that the democratic spirited members of the allied states prosecuted the wealthier and oligarchic.

accelerate the introduction of the case, but this was an additional outlay.[11] At the trial the susceptibility of the jurors to appeals that painted the defendant as anti-democratic was almost insurmountable. Added to this there would most often be the inability of the foreigner to present his case well and the consequent necessity of hiring assistance in the form of logographers and advocates.

There are indications also that the treatment of a foreigner was not always fair. Euxitheus when brought to Athens for trial when accused of the murder of Herodes, was not summoned before a homicide court on a *δίκη φόνου* as might have been expected. The prosecutors used the summary proceedings that were employed regularly against thieves, housebreakers, kidnappers or criminals of that class. Furthermore, although he offered the "sureties required by law, his bail was refused; he was imprisoned."[12] Such treatment was of course extremely distasteful to the defendant.

Under such circumstances it would be inevitable that in the large majority of cases a wealthy citizen from an allied state would prefer to settle at once with the sycophant.

A good example of the activity of sycophants in attempting to extort money from men who would easily fall into disfavor with the Athenian jurors is found in the case of Euxitheus. In the course of his defence he is compelled to say a few words in behalf of his father who had apparently been maligned by the prosecution.[13] He and his father were natives of Mytilene. The latter had remained faithful to Athens at the time of the revolt of Lesbos. He had, in fact, been included in the number of Mytilenean citizens who were allowed the liberty of living on their own land. But he no longer resided in Mytilene. He had moved to Aenos in Thrace. The cause of this, his son assures the jury, was no disloyalty to Athens or his own city. It was his hatred of the sycophants.[14] The meaning of this is clear. Euxitheus' father had been beset by sycophants who accused him falsely of participation in the revolt. He had probably paid hush-money at first. When the situation became unbearable he left Lesbos and went to Thrace, which seems to have been the resort of a number of Athenians also[15] who preferred to live away from the dan-

[11] *Ibid.* III, 2 ff.
[12] Ant. 5, 16-17 ff.
[13] *Ibid.* 74 ff.
[14] *Ibid.* 78.
[15] Cf. Section on "Prevalence of Sycophancy" p. 23 ff.

ger of litigation. There is no reason for supposing that this is a unique case.

This field of the sycophant's activity receives its share of satire in the plays of Aristophanes. In the *Birds*, Euelpides and Pisthetaerus are represented as looking for an ideal city, free from litigation and sycophancy, in which to spend the rest of their days.[16] The Hoopoe tells them that such a place as they describe may be found on the shores of the Red Sea. "Not for me," says Euelpides. "I'll never move to a place on the seashore where any morning an Athenian galley may come with a summoner to take me to Athens."

The sycophant who appears in Nephelococcygia styles himself "*κλητὴρ . . . . νησιωτικὸς καὶ συκοφάντης.*" He asks to be equipped with wings so that he may increase his efficiency in summoning the allies to Athens. With wings he could fly off to one of the islands, issue a summons to Athens to one of the allies, fly back to Athens and have the case tried before the defendant arrives. The latter would lose by default and then the "winged" sycophant could fly off to the island and seize his goods before the unfortunate man returned.[17] The exaggeration is patent. But the mere reference to this sort of activity shows that there were numerous *κλητῆρες νησιωτικοί*. Aristophanes does not waste his wit on matters of slight consequence.

The extortion of money from men in the allied states is well described by Aristophanes in the *Peace*. "They used to harass the wealthy of our allies, attaching to each the imputation that he followed Brasidas. Then you Athenians used to worry the accused man like little dogs. The foreigners seeing the blows with which they were beaten stopped up with gold the mouths of those who did this and made them rich."[18]

The Sausage seller in the *Knights* is assured that if he attacks Cleon for having accepted bribes he will be the mightiest of the Greeks and rule over the allies, disturbing and shaking (*σείων*) them and making much money.[19]

The extent to which this evil grew is shown by the fact that the plundering of allies by sycophants is regarded as the cause of their revolt. "You all know that in the former democracy, many of those who managed the city's business stole public money, and that some

[16] 147-8.
[17] 1422 ff.
[18] 638 ff.
[19] 838 ff.

of them took bribes against your interests and that the sycophants caused the allies to revolt."[20] So Isocrates describes the causes that led to the loss of the subject states: "By outraging the allies, and falsely accusing them and driving the best out of their property, the sycophants succeeded in putting them in such a state of mind that they revolted from us and gladly accepted the friendship and alliance offered by the Lacedaemonians."[21]

[20] Lys. 25, 19.

[21] Isoc. 15, 316-318.

## CHAPTER III

### Typical Athenian Sycophants

It will be interesting to trace the careers of a few notorious Athenian sycophants. One of the most unscrupulous was Agoratus. No act that offered him opportunity for financial gain was too mean for him.

His public career began in 411 B.C. He was a slave who had gained the citizenship by pretending to have had a hand in the assassination of Phrynichus.[1] According to Lysias he had no right to this merit; he had bribed the rhetor in order to get his name inscribed on the stele which was set up by public decree to honor those who had been connected with the plot to remove Phrynichus.[2] There is such a decree in existence.[3] In form it is a rider to another that votes honors to Thrasybulus for his part in the assassination of Phrynichus. The rider provides, in part, for other honors to the rest of the conspirators. Of these Agoratus is one. Lysias quotes another decree to prove that he is right in his charge of bribery.[4] It would seem therefore that the bribery had been discovered and another decree passed to cancel the honors conferred by the earlier one.[5] Whatever the truth about the matter is, it is certain that Agoratus had succeeded in passing as a citizen. He had spent the years from 411-404 as an active sycophant. He had laid "all conceivable indictments" *δίκαι, γραφαί, ἀπογραφαί*;[6] had been convicted of sycophancy and fined 10,000 drachmae.[7]

A man who claimed citizenship for participation in the blow that broke up the Four Hundred, might reasonably be expected to be democratic in sympathy. But Agoratus was absolutely unprincipled. The claim was made merely as a means of gaining the citizenship. In 404, the Athenians who were anxious to come to terms with Sparta and establish an oligarchy, regarded him as a fit tool for their plans. This shows how prominent he had become in rascality. The use they made of him is interesting. It shows how an unprin-

[1] Jebb. *Att. Or.* I p. 269; Lysias. 13, 64, 70-76.

[2] *Ibid.*, 70-76. The rhetor is probably Diocles. Vid. Hicks and Hill, *Greek Historical Inscriptions*. p. 150, 3.

[3] C. I. A., i, 59. Hicks and Hill, *loc. cit.* 74.

[4] Lysias 13, 72.

[5] Vid. Hicks and Hill, *loc. cit.* for full discussion.

[6] Lys. 13, 65, 73.

[7] *Ibid.* 65.

cipled man, familiar with the courts and legislative bodies, as a sycophant would be, could be employed to do underhanded deeds with which those who hired him were unwilling to be openly identified.

The first proposition of the Spartans in regard to terms of peace were intolerable to the democrats at Athens.[8] Theramenes was despatched to Sparta to arrange for a more favorable peace. While he was gone the partisans of the oligarchy at Athens contrived a plot for removing certain influential democrats who opposed the acceptance of Sparta's terms. They trumped up a charge against Cleophon, packed the court with anti-democratic jurors and condemned him to death.[9] The terms which Theramenes brought back proved still more intolerable to the democratic party. The oligarchs saw that they must remove the objectors before the meeting of the ecclesia that should pass on the Peace. To do this they could go before the senate and give information about those who were creating opposition. But the plot would then have been too clear. So they availed themselves of the services of Agoratus and his friend and boon companion, Theocritus.[10]

Their scheme worked in the following way: They sent Theocritus before the senate.[11] He told that body that he knew of a plot to oppose the peace, but was not in a position to reveal the names of those in the conspiracy since he was a member of the same club as they. He did however accuse Agoratus of being one of the plotters against the peace and intimated that the senate would succeed in getting the names of the others from him. The senate had already been corrupted by the efforts of the oligarchs. It was really a party to their scheme. Behind closed doors it passed a decree for the arrest of Agoratus. A committee of the senate went to the Peiraeus and attempted his arrest. It had already been planned that he should pretend that he was one of the anti-peace party. In this way his information would seem to be forced from him and the oligarchs would not be suspected.[12]

Accordingly when the committee arrived in the Peiraeus, he feigned alarm and took sanctuary at the altar in Munychia. Some of the democrats who did not know of the plot of the oligarchs and

[8] *Ibid.* 5-8.
[9] *Ibid.* 8-12.
[10] *Ibid.* 18 ff.; 32.
[11] *Ibid.* 21.
[12] *Ibid.* 18-22.

thought that Agoratus was suffering for being one "of the people" went bail for him. The senators took their names and went back to the city. The bondsmen then tried to induce Agoratus to leave Athens: boats were ready; they would all go away until the matter settled down. He steadily refused. The plan of the oligarchs would of course be spoiled if he did not stay and inform. He insisted on appearing before the senate.[13] When he was admitted he pretended to turn state's evidence and gave in the names of his bondsmen, the generals and the taxiarchs, as prominent democrats who were opposing the peace.[14] Those whose names he gave in were imprisoned. All effective opposition to the oligarchy was removed. Soon Lysander arrived in the Peiraeus and Sparta's terms were accepted and the oligarchy was established.[15] Those against whom Agoratus had informed were put to death. He however was tried by the Thirty and released as a friend of the government.[16]

It may be that he was exiled, because he joined the democratic party at Phyle and returned to Athens with them.[17] Sometime after the "return" he was accused of murder by Dionysius, the cousin and brother-in-law of Dionysodorus, who was one of the democrats put to death by the Thirty as a result of the information of Agoratus. Our information in regard to his career is found in the speech of Dionysius.

[13] *Ibid.* 29.
[14] *Ibid.* 30.
[15] *Ibid.* 34.
[16] *Ibid.* 38.
[17] *Ibid.* 77.

### *Callimachus*

Callimachus is a good example of the extremely litigious persons that extorted money from Athenian citizens by accusing, or threatening to accuse, them of acts that had been committed before the restoration of the democracy in 403. Such prosecutions were theoretically prohibited by the Amnesty.[1] But even so the Athenians found themselves continually worried by sycophants who made it their business to accuse them of some participation in the oligarchy or especially in the acts of the Thirty. The dread of appearing before a popular court on such charges made blackmail exceedingly successful. The extent to which such threats of prosecution were carried

[1] Isoc. 18, 1-2.

is seen from the fact that a special provision was inaugurated to meet them. On the motion of Archinus a law was passed allowing the person against whom an action was brought in violation of the Amnesty, to make a special plea (παραγραφή). This παραγραφή was a plea that the action was not maintainable according to the Amnesty.[2] The speech *vs. Callimachus* was delivered in support of such a plea. The speaker (unknown) had been maliciously prosecuted by Callimachus and availed himself of the comparatively new privilege. This speech is the source of our information in regard to this sycophant.[3]

He had been a turn-coat in the time of the Peloponnesian War. To save his property he ran off from Athens and stayed away ten years. When the Thirty came into power he returned, thinking that he could find favor with them and help himself financially. He remained an oligarch until the day when the Peiraeus party was ready to attack the walls. Then he joined the exiled democrats. When the Spartans blockaded the Peiraeus, he fled to Boeotia, so as not to be found with the exiles if they were defeated.[4] In the period following the Thirty, when the "Ten" were in control, he was in Athens. It was then that an incident occurred that provided him with the basis for several vexatious attacks.[5]

One day the speaker (in the παραγραφή) and his friend Patrocles, who was King Archon at the time, were out walking and happened to meet Callimachus. Patrocles and he were enemies. The former noticed that Callimachus was carrying some money. He stopped him and accused him of having in his possession money liable to confiscation. A dispute arose. Patrocles insisted that the money had belonged to Pamphilus who had left Athens and joined the Peiraeus party. In the course of the discussion many people rushed up. Among them happened to be Rhinon, one of the Ten. Patrocles immediately accused Callimachus to him, of being in possession of state money. The matter was taken before the Ten and the Boulê and it was decided that the money was the property of the state. Callimachus was compelled to surrender possession.[6]

[2] *Ibid.* 3. Vid. Grote *Hist. of Greece*, VIII. 299.
[3] Isoc. 18. Vid. Jebb *Att. Or.* II, 235 for question of date.
[4] *Ibid.* 48-49.
[5] *Ibid.* 5 ff.
[6] The mere fact that the money belonged to a democrat was sufficient to make them decide thus.

When the democracy was restored Callimachus very naturally made capital of this matter.[7] If the money was really his own it was easy to arouse a democratic jury by representing himself as unjustly used. If it belonged to Pamphilus, who was identified with the exiles, the same course of reasoning was possible. He could dwell on the grasping nature of the money-loving oligarchs. In either case he could make his arguments convincing by representing Patrocles and all concerned as tools of the oligarchs.

He first brought action against Patrocles and succeeded in extorting ten minae from him.[7] He next involved Lysimachus in the affair and secured two hundred drachmae from him. The speaker was the third to be threatened with prosecution. Callimachus let it be understood that he intended to charge him with responsibility for the whole trouble. It was apparently his method to represent each of the men whom he accused as the special tool of the Ten.

The scheme that he employed in attempting to force the speaker into a settlement is interesting.[8] It was no doubt the method he had employed successfully in the other suits, and according to the speaker was common with sycophants. He went around among the crowds and in the favorite lounging places and talked over his troubles. He dwelt in great detail on his mistreatment at the hands of the speaker. Then some of Callimachus "friends" came to the prospective defendant and urgently advised him to settle with Callimachus for a sum and not run the risk of a trial. It was better, they assured him, to pay a little, than to lose the whole sum by a judgment. To influence him they reminded him of the many mishaps that came in the courts. Even with great confidence in the case it was not safe to take the chances of the trial. Although the speaker does not say so, he must have been reminded also of the success that Callimachus had had in the other cases. At last the speaker was persuaded. He paid Callimachus two hundred drachmae. To insure safety from future attacks he insisted that there be a witness to the transaction.[9] They accordingly submitted their agreement to an arbitrator and he "sanctioned it by his award." But as the speaker had expected, Callimachus did not let the matter rest. He renewed litigation by bringing suit against the speaker for 10,000 drachmae. At the trial

[7] *Ibid.* 8 ff. Since the suits were private (δίκαι) there was no penalty for withdrawing the charge after making a settlement.

[8] *Ibid.* 9 ff.

[9] This was the regular method of avoiding false accusations.

the speaker produced a witness to prove that the case was not maintainable, since the matter had already been settled. The natural course for Callimachus to follow was to accuse this witness of false testimony. He did not do this He knew that he would not be able to prove such an accusation and would be compelled to pay the ἐπωβελία. He therefore "arranged" it with the magistrate in charge and instead of bringing a δίκη ψευδομαρτυρίων he entered the same suit again.[10] For this bribing of the official he used the assistance of Xenotimus. The latter was an expert at breaking laws, corrupting jurors, tampering with magistrates and similar deeds. Under the circumstances the speaker let the case come to trial but entered a special plea that it was covered by the Amnesty and was therefore not maintainable.

According to the speaker the career of Callimachus was one succession of δίκαι, γραφαί, false testimony and active participation in suits brought by others of his type.[11] One incident he considers sufficient to show what sort of man he was.[12] Callimachus and his brother-in-law together trumped up a case against one Cratinus. The latter and the brother-in-law had had a dispute over a piece of land. A fight ensued. The scrimmage became rather general. Afterwards the two schemers hid one of their slave girls. Later they said that she had died from a wound in the head dealt her by Cratinus, and brought a δίκη φόνου in the Palladium against him. He discovered their scheme but let them go on with their case. He knew that they would try some new trick if he exposed them too soon. When the case came to trial the brother-in-law was the plaintiff and Callimachus with thirteen others swore that the girl was dead. Cratinus excused himself from the court, went to the house where the girl was hidden, broke in, took her to the court and showed her alive and well to all present. The plot was so apparent that the prosecution did not receive a single vote from the seven hundred jurors who heard the case.

### *Aristogiton*

All the references[1] to this notorious sycophant are in substantial agreement with Demosthenes' description of him as μέσος, τελευταῖος

[10] *Ibid.* 11-12. The details of this are not clear. Cf. MSL. 844, n. 221.

[11] *Ibid.* 51-52. The language implies that the cases in which he was usually interested were trumped up, "μεθ' ὧν συνέστηκε."

[12] 53, 54.

[1] Dem. 25;26; Dinarchus 2; Plut. *Phocion.* Chap. X.

καὶ πρῶτος of his kind.[2] Though of non-Athenian parentage,[3] like Agoratus, he had in some way acquired the citizenship. This he used for only one purpose, sycophancy.[4] He went about like a viper or a scorpion "with his sting uplifted, hastening here and there, looking for some one whom he might bring into a scrape or fasten some calumny upon, and put into alarm, in order to extort money."[5]

He is a typical example of a sycophant who had acquired a standing of some importance in the state by his oratory and his activity in the courts and ecclesia. This influence he used however for nothing but base purposes. In the earlier years of his career he seems to have made it his business to attack public men especially.[6] By this pretended interest in the people's welfare he had won the title of κύων τοῦ δήμου.[7] Like others of the type he represents, he appeared in the assemblies where public men expressed their opinions and made all manner of audacious charges against them. It seems that he had an orator's power of winning the people to his side. His method was to bawl out in the assemblies: "I am your only well-wisher"; "All these are conspirators"; "You are betrayed"; "My good will is the only thing left you."[8]

Even more effective than this railing in the assemblies against public men, was his prosecution of them in the courts or his threats of prosecution. It is very probable that in many of these attacks on prominent politicians he was acting as the agent of their political enemies. This was true in his attack on Demosthenes at any rate. Hired by the pro-Philip party he had brought seven indictments against him, and twice he had accused him at the euthynae.[9]

He was not, however, a safe man to employ as agent. He would not hesitate to settle up with the man whom he was hired to prosecute.

[2] Dem. 25, 8-9; Dinarch. 2, 1 "He is the worst man in Athens, no rather the worst in the world." Cf. Plut. *Phocion* Chap. X, 746.

[3] Dem. 25, 65. At least his mother was not an Athenian; she was sold into slavery upon conviction of undutifulness to her patron. Cf. also 79 and Dinarch. 2. 8, 15.

[4] His activity in the courts and ecclesia shows that he was a citizen.

[5] Dem. 25, 52 (Kennedy) cf. Plut. *Phoc., loc. cit.*

[6] Dem. 25, 40-42 states that he has ceased attacking public men, who, he had found, could defend themselves.

[7] Dem. 25, 40.

[8] Dem. 25, 8-9, 64. Cf. Plut. *Phoc., loc. cit.* where he is described as one "who inflamed" the people to battle and who was a "great man of war" in the assembly.

[9] Dem. 25, 37.

This was apparently a scheme for getting paid twice for the same matter.[10]

After Chaeronea he indicted Hyperides for illegal measures.[11] The decree that Hyperides had moved authorized that all the disfranchised should be restored to their full rights. The purpose was to enlist as many as possible on the side of Athens. An attack on such a measure by a man like Aristogiton, who himself had often been partially disfranchised because of failure to pay debts to the state, was probably initiated by political opponents of Hyperides and the anti-Philip party.

Demosthenes cites some instances of his professional success. He accepted a bribe to drop the prosecution of an eisangelia that he had brought against a certain Hegemon and an indictment against the orator Demades. Over Democles he held threats of an eisangelia until he made a settlement with him. In the matter of "the olive dealer Agathon" he caused a great deal of disturbance in the assembly. Then he "received something" and kept quiet, even though he was present at the man's trial and acquittal. He seems to have had as a partner in many of these suits, Philocrates, the Eleusinian. They apparently worked together and shared the gains.[12]

Once he had been convicted on the charge of *συκοφαντίας*.[13] Twice he was convicted of illegal measures and in each case condemned to pay a fine of five talents, as large a sum as was ever entered in a graphe paranomon. The first fine he was in no hurry to pay, but kept up his sycophancy until he was forced to make the payment. He delayed payment of the other until it was doubled. He was also indebted to the state 1000 drachmae, as a result of dropping the suit he had begun against Hegemon.[14] This debt he also allowed to run longer than the law allowed and it too was doubled. To secure the payment he mortgaged a piece of land to the state. Shortly afterward the mortgage was transferred to his brother Eunomus. The latter agreed to pay the debt by ten yearly instalments. Eunomus made two payments. Aristogiton then regarded himself no longer as debtor, on the ground that his brother had been accepted in his place. He proceeded to avail himself of all the privileges of a

[10] Dem. 25, 46-7, 39.
[11] Dem. 26, 11.
[12] Dem. 25, 47.
[13] Dem. 25, 19. Lipsius *A. R:* 448.
[14] Dem. 25, 19; Dinarch. 2, 12; Dem. 25, 68; Hypothesis 1-2.

citizen with the full franchise. For this an endeixis was laid against him by Lycurgus[15] assisted by Demosthenes.[16] The latter's speech on this occasion is one of the chief sources of information about the defendant.

Demosthenes expected that Aristogiton would follow his usual method and threaten him with prosecution for some overt act against the state, in order to arouse the sympathy of the jurors for himself, and their animosity against Demosthenes.[17] He therefore reminds the jurors that during the last two years, although Aristogiton had been active in the courts and ecclesia and had seen him and Lycurgus all that time, he had not taken occasion to make any accusations against them. Any threat then in the present trial is either a false one, or else he has been guilty of negligence in the last two years. "But the truth is," says Demosthenes, "that Aristogiton has stopped attacking public men." After a silence of five years, to which he had been condemned, for debt to the state, presumably, he had returned to his usual business. But he then attacked only the poorer speakers and the inexperienced ones.[18] He had learned his lesson. "But he has tasted of the flock that he was supposed to be guarding," says Demosthenes sarcastically, "and has stopped attacking the wolves. Dogs that have tasted mutton should be chopped up." He had lost the right to the title of *κύων τοῦ δήμου*.[19]

He was apparently incorrigible. After the endeixis had been brought against him he kept up his bawling and slandering. He attempted to extort money from the generals by threats of prosecution.[20] They refused to give him any. Then he tried to defame them by saying that as far as he was concerned they would not be elected superintendents of outhouses even. All this abuse could have been stopped by money, if they had seen fit to bribe him. He did succeed in extorting some money from certain magistrates elected by lot.[21] Lastly he had tried to confuse the proceedings by publishing false papers.[20] The trial went against him and he was

[15] Cf. Din. 2, 13.
[16] Dem. 25, 14, also Hypothesis.
[17] *Ibid.* 25, 36 ff.
[18] *Ibid.* 38.
[19] *Ibid.* 40-42. (Kennedy)
[20] *Ibid.* 25, 49-50.
[21] They apparently feared the Euthynae.

convicted. Even then he forced his way into the ecclesia and took his seat on the first bench of the prytanes.[22]

According to Dinarchus he had spent more time in prison than out of it.[23] This must have been for debt to the state. At the time of his first imprisonment he committed such an outrage that his fellow prisoners refused to associate with him at all.[24] He got into conversation with a newly arrived prisoner and in the course of it stole his pocket-book. When the man tried to get it back a fight ensued. The newcomer was fresh and strong, and Aristogiton somewhat "dried and shrivelled up" because of his long sojourn in the prison. Therefore the former succeeded in getting the upper hand. But in the course of the fight Aristogiton bit off the man's nose.

At one time he broke prison. He was sheltered and concealed for several days by his mistress, a woman by the name of Zobia. After the authorities had ceased searching for him, she gave him clothing and money and sent him off to Megara. When he had returned and become a "great" man and the woman was in want, he maltreated her. She complained to her friends. At once he took her off to sell her as a slave, and would have done so if her alien tax had not been paid.[25]

Once Phocion was called to the prison to see Aristogiton. His friends objected to his going. "Where would I rather see Aristogiton, than in prison?" asked Phocion.[26]

His reputation was so bad that when he was drawn by lot for the office of ἐπιμελητής of the Emporium, the officials rejected him at the dokimasia.[27]

He allowed his father to die neglected in prison and would not even bury him. Against those who did bury him he brought a suit, instead of paying them for their services.[28] He sold his sister to be taken out of the country and did not keep his hands off his own mother.[29]

[22] Dinarchus 2, 13.
[23] Dinarchus 2, 2. Cf. Plut. *Phoc., loc. cit.*; Dem. 25, 67.
[24] Dinarchus 2, 9; Dem. 25, 60-61 ff.
[25] Dem. 25, 56-57.
[26] Plut. *Phoc., loc. cit.*
[27] Dinarchus 2, 10.
[28] Dem. 25, 54, 65; Dinarchus 2, 8.
[29] Dem. 25, 55.

His liturgies were φάσεις, ἀπαγωγαί, ἐνδείξεις.[30]

Some other deeds of villany are mentioned, but the references are too vague to offer definite information.

The last act of treachery was the one for which he was prosecuted by Dinarchus. He took a bribe of twenty minae from the Persian envoy, Harpalus. On this charge he was condemned by the court and thrown into prison and died there.[31]

### *Theocrines*

Theocrines like Aristogiton was an orator of some ability and had attained considerable prominence in the affairs of state. Both he and Aristogiton were really demagogues who used their influence in extorting money from men of prominence, but who did not hesitate to stoop to the means of the ordinary sycophant when it suited their purpose. The case of *Epichares vs. Theocrines* is full of information about the career of the latter.[1] The circumstances that Epichares uses as a basis of the first charge against him, prove him a sycophant beyond a doubt. These circumstances have been related in detail above.[2] They dealt with the φάσις that Theocrines had entered against Micion and had failed to prosecute when the latter had made a settlement with him.

Theocrines seems to have boasted that his work in life was to bring indictments for illegal decrees.[3] Like Aristogiton he tried to acquire a reputation for supporting the democracy and chose this way to gain it. The purely mercenary motive that underlay these suits is seen from his attitude at the indictment of the father of Epichares for illegal measures.[4] He pretended to be much concerned in securing justice for an orphan. But the case would have never come to trial if the defendant had paid the 1000 drachmae for which

[30] *Ibid.* 78.

[31] Dinarchus 2, esp. 1 and 4.

For other references to Aristogiton Vid. Schaefer *Dem. u. s. Zeit.* III, 296 f.; 314. *Hermog. de form. orat.* I, 296, II, 363. Suidas s. v. Blass. *A. B.* III, 2, 251. Quintilian XII, 10, 22. "Quintilian honors him entirely too much when he classes him with Lycurgus and other masters," Thalheim in *Pauly-Wiss.* s. v.

[1] (Dem.) 58, 5-13.

[2] pp. 34 ff.

[3] (Dem.) 58, 22-23, 34, 45.

[4] *Ibid.* 31 ff. For fuller discussion vid. pp. 36 ff.

Theocrines was willing to settle and to drop proceedings. No direct financial gains came to him from the conviction that he secured when the case was tried. But he used it as a means of extorting 200 drachmae from Polyeuctus whom he indicted for maltreatment of the same orphan whose interest he pretended was the cause of the previous indictment.

At another time he had indicted Demosthenes for illegal measures and had failed to prosecute.[5] Epichares explains the reasons for the dropping of the suit and the manner in which it was done. Some one asked when the case came to trial that it be postponed and gave as the reason for the request the serious illness of Demosthenes. Although the one who made the request took oath that his statement about Demosthenes was true, Epichares states that it could not have been so because Demosthenes was at that time very active in his attacks on Aeschines. Theocrines however consented to the request and let the matter drop, and never renewed the case. It is evident that the postponement had been secured by previous arrangement. From the reference to the sum of money that Theocrines had named as penalty, it is to be inferred that there had been a money consideration.[6]

In connection with another indictment of the same kind Theocrines had received a mina and a half *ὑπὲρ τοῦ ψηφίσματος ὃ Ἀντιμέδων ἔγραψε τοῖς Τενεδίοις.*[7]

Because of the present suit brought by Epichares, Theocrines had been forced to drop an indictment that he had brought against Thucydides and Demosthenes. Epichares expects that he will urge that the suit was brought for that purpose, according to a prearranged scheme of the two men who were in danger of conviction if the case against them came to trial.[8]

Other incidents in the life of Theocrines stamp him as absolutely unscrupulous. His brother had been murdered and instead of prosecuting the guilty ones, Theocrines accepted a bribe from them.[9] Before they paid him he kept threatening to accuse Democharés of the crime.[10]

After his brother's death he succeeded in getting himself elected *ἱεροποιός* illegally.[11]

[5] *Ibid.* 43.
[6] On the settlement out of court by money payment vid. pp. 86-87.
[7] *Ibid.* 35.
[8] *Ibid.* 23, 36, 43.
[9] *Ibid.* 28.
[10] *Ibid.* 29.
[11] *Ibid.* 29-30.

At the time that his brother was one of the Thesmothetae, Theocrines acted as his assessor. His actions while in that position were responsible for the suspension of the whole body of Thesmothae. They were reinstated only on condition that Theocrines be no longer used as their adviser.[12]

His desire for public activity was insatiable. He was indebted to the state treasury 2200 drachmae on three separate fines. Still he insisted on assuming the rights of an ἐπίτιμος. It is very probable that the reputation that he had acquired, of favoring the interests of the people, made the attitude of the state more lenient toward him and that therefore no one had cared to indict him.[13]

He belonged to a club the members of which had succeeded in buying off the advocates and witnesses upon whom Epichares had depended. These same club-members were expected to appear as advocates for Theocrines and had apparently helped him in working out a clever defence. They regularly worked together and shared the gains when there were any.[14]

[12] *Ibid.* 27. [13] *Ibid.* 2, 5, 12, 14, 22.
[14] *Ibid.* 4, 7, 40 ff. Cf. above 64, 67.

## CHAPTER IV

### Checks on Sycophancy[1]

The excessive amount of groundless litigation that grew out of the provision ἐξεῖναι τῷ βουλομένῳ γράφεσθαι early demanded some check. With the purpose of discouraging "frivolous and vexatious" prosecutions, general laws were enacted, which affected not only sycophants but all thoughtless or avaricious prosecutors.

Any man who dropped a public suit after he had started proceedings was fined 1000 drachmae and denied the privilege of bringing a similar suit again.[2]

The professional sycophant Theocrines had violated this law by withdrawing from the prosecution of a φάσις that he had entered against Micion. For the failure to pay the fine that he had thereby incurred he was prosecuted by Epichares. The fine of 1000 drachmae is the only part of the law which receives attention from the prosecutor Epichares.[3] But the latter may be especially concerned in emphasizing this, since he is endeavoring throughout the whole speech to heap up the number of fines that Theocrines has incurred.

Euctemon, the sycophant who had been hired by Midias to bring a false charge against Demosthenes, dropped the prosecution of it after the case had been posted, and thereby "disfranchised himself."[4] Apparently the full penalty of the law had been applied in his case.

Although this law worked well in theory its practical value was not very great. References to settlements and compromises are frequent in the orators. Many non-litigious and sincere prosecutors as well as sycophants, were willing to accept money by way of settlement, even after the case had been begun. It seems also that under some circumstances, with the "consent of the proper authorities",[5] a prosecution that had been started might be discontinued, even after the anacrisis. In fact, several indications point to a general disregard of the law that provided punishment of the man who dropped a case. Reasons for this are not hard to find. Enforcement of the law would be difficult to secure. On whom did the responsibility of

[1] De Vos 64 ff.

[2] (Dem.) 58, 6; 21, 103; 21, 47. Cf. Theophrastus Fr. 8; *Lex. Rhet. Cant.* 677, 8.

[3] (Dem.) 58, 6 ff.

[4] Dem. 21, 103.

[5] Calhoun 58 n. 6.

securing the enforcement rest? It is hardly likely that the magistrate under whom the case had been entered was expected to see that the prosecutor who dropped the suit was punished.[6] The man who had escaped trial by paying the prosecutor, would never turn against the one with whom he had settled and accuse him of violating the law. Neither would his friends do so. It is probable that the enforcement depended on the "interest of individual citizens"[7] in particular cases. The fact that Theocrines was liable to the penalty of this law was undoubtedly well known before he was brought to trial by Epichares. But he had been exercising full rights of citizenship until that trial and had not paid the fine. Unless some one who was unusually interested in the enforcement of the laws, or one who for personal or political reasons wished the offender punished cared to bring action to enforce the penalty, there was no special inconvenience entailed. Epichares happened to have personal reasons for desiring to see the penalty applied in the case of Theocrines. He therefore took advantage of the opportunity that was offered anyone and prosecuted him for failure to pay the fine and for exercising full rights of citizenship.[8]

Evasions of the law were also possible. Theocrines is accused of having discontinued a suit against Demosthenes by a device that is said to have been common. When the case came to trial some one requested that it be postponed on the ground that Demosthenes was too ill to attend. Theocrines consented and never renewed proceedings. The language of the passage makes it clear that the scheme was prearranged and that Theocrines had been paid to drop the prosecution.[9]

The failure of a prosecutor in a public suit to receive one-fifth of the votes cast likewise exposed him to the fine of 1000 drachmae and partial disfranchisement.[10] Aristogition, the notorious sycophant, had not succeeded in securing the requisite number of votes in one of his many prosecutions.[11] He was accordingly fined and

[6] This is the view of Lipsius, *A. R.* 844.

[7] Calhoun 58, n. 6.

[8] Cf. Calhoun 58 ff. for discussion and references.

[9] (Dem.) 58, 43.

[10] And. 4, 18; Lys. 18, 14; Dem. 21, 47; 22, 26-27; 23, 80; 24, 3; (58, 6;) Plato *Apol.* 36 B.

[11] (Dem.) 26, 9 (Kennedy's intro.); The hypothesis (2) states that it was the dropping of his suit against Hegemon that brought the fine. It may well be that he was fined for both.

partially disfranchised. He disregarded the penalty altogether however. The fine was doubled, because he delayed payment too long. He insisted on exercising all the rights of citizens. For this an indictment was laid against him by Lycurgus and Demosthenes. As in the case of the other law, enforcement depended on the activity of individuals.[12]

Malicious and vexatious δίκαι were checked by a provision similar to this. If the prosecutor in a private suit failed to receive one-fifth of the votes cast he was forced to pay the defendant an obol for every drachmae of the amount at which he had assessed the damages in his suit.[13] This ἐπωβελία affected fewer professional sycophants than the other laws mentioned. Comparatively few of them would be able to use private suits in extorting money. Circumstances happened to make it easy for Callimachus and some others to ply their trade by this means.[14]

Efforts of sycophants and other litigious persons to bring suits in violation of the Amnesty of 403 B.C. caused so much additional trouble that a further check was introduced in the shape of the paragraphe.[15] This gave the person who found himself accused παρὰ τοὺς ὅρκους the opportunity of pleading that the case was not maintainable, since it was covered by the Amnesty. The defendant thus had the right to speak first. This privilege he could use in calling the jurors' attention to the litigious nature of the prosecutor who was violating the Amnesty. He could also present his view of the case proper, for it was expected that the defendant would not rest his case on mere technicalities but would discuss the whole matter.[16] The jurors were naturally unable to make their decision without

[12] It is impossible to determine whether the disfranchisement (partial) followed in connection with every γραφή or not. The language is sometimes ambiguous; that is, it implies that in a certain case the fine followed but not the atimia, or else that there was disfranchisement but no fine. This is probably due to the fact that the speaker in each case considers one or the other of these things as more important for his purpose. For complete discussion Vid. MSL 952; D. and S. *Dict. des Antiq.* s. v. γραφή; Lipsius *A. R.* 307-308, n. 26; 449; Pollux, VIII, 41.

Some grammarians were of the opinion that the atimia followed only if a man had lost three public suits, MSL 953.

[13] For the question as to what δίκαι were liable to ἐπωβελία vid. D. and S. *Dict. des Ant.* s. v.; MSL 949 ff. Lipsius *A. R.* 937. Some of them are δίκη ἐπιτροπῆς, δίκη χρέως, δίκη παραβάσεως συνθηκῶν.

[14] Isoc. 18, 1-3.

[15] Isoc. 18, 1-3; Aristotle, *Const. Ath.* 39, 6; Xen. *Hell.* II, 3, 12.

[16] Lipsius *A. R.* 856.

taking everything that they had heard into consideration. Their vote on the paragraphe would in most cases be equivalent to a vote on the case proper. If the defendant won the paragraphe the plaintiff was fined just as he would have been, had he lost the original case; ἐπωβελία if the suit was a δίκη, 1000 drachmae if it was a γραφή.[17]

The leading case of such a paragraphe is the one brought against Callimachus. The latter had been very active in extorting money from men whom he could involve in participation in an incident that occurred just before the restoration of the democracy. The third man from whom he tried to secure a large sum let the matter come to trial and then availed himself of the paragraphe.[18]

These indirect methods did not succeed in stopping the evil to any considerable extent. There were therefore means provided for attacking the sycophant directly in the courts. Three of these are mentioned by Isocrates in the *Antidosis*.[19] He is devoting considerable space to attacks on sycophancy and to a description of the seriousness of the evil. To make this most vivid he enumerates the different forms of procedure used against them and the several tribunals before which they could be tried. This he does by contrasting provisions against ἀδικήματα with those against sycophancy. "To meet the greatest crimes, they (our ancestors) provided a trial in one of the dicasteries. But against these (sycophants) they instituted γραφαί before the thesmothetae, εἰσαγγελίαι before the Boulê, and προβολαί

[17] The speaker in the case *vs. Callimachus* (3) states that the fine was ἐπωβελία. This has led to the conjecture that the paragraphe was intended for δίκαι only. (Lipsius *A. R.* 858). The explanation may very well be as follows: The plea was intended for both public and private suits. The one used against Callimachus is used in a private suit. For this reason the penalty was the ἐπωβελία. If the suit was a public one the fine would in all probability be 1000 drachmae. This seems to be the usual fine in such cases, in order to discourage useless litigation. As is usual among the Greeks, only that part of the law is quoted which concerns the case. Vid. D. and S. *Dict. des Antiq.* s. v. παραγραφή.

The later use of the paragraphe, though it developed out of the one mentioned here, did not in all probability have any real effect on sycophancy.

[18] Isoc. 18, 9 ff.

[19] Isoc. 15, 313-14. The language of Isocrates seems to indicate that he considered these measures against sycophants very old. They can hardly go back to the period before the growth of the courts and the prominence of sycophancy. It is to assume too much political foresight in the "legislators" of the period before Pericles, to imagine that they foresaw the abuse that would come and legislated against it. The habit of assigning to old legislators the credit for the laws that happen to meet with the speaker's approval is natural and common among the orators.

before the people, because they thought that those who practised the business exceeded in every branch of villany."

Of the three measures mentioned by Isocrates, the probole receives most attention from other ancient authorities. Aristotle's statement is the fullest. According to him, in the sixth prytany (*κύρια ἐκκλησία*) at the same time at which a vote was taken as to whether there should be an ostracism or not, there was offered also the opportunity to bring in *προβολὰς συκοφαντῶν*. Six names were allowed to be entered, three citizens and three metics.[20]

Modern scholars are in substantial agreement in regard to the occasions which justified the use of probole against sycophants.[21] Because this procedure is regularly connected with offences that

[20] Const. of Athens 43, 5.

It will be remembered that the probole was merely an informal preliminary criminal information, brought before the ecclesia. It was intended as a test of public opinion and involved no punishment. Gilbert (303, note) is of the opinion that Aristotle does not mean that at this time only were probolae introduced, but at other meetings also. The special point is that it happened regularly at the *κύρια ἐκκλησία*. The reason for making the number of metics and citizens who might be reported by means of the probolae equal, is hard to explain. It does not seem reasonable to suppose that metics would have enough chances of using their arts against the people to justify such a provision.

Sandys (note ad loc.) is of the opinion that the metics had to receive special permission if they wished to accuse a person. This is the usual interpretation of the *ἄδεια* which the slave Andromachus and the metic Teucer asked for and received before they gave information about the Mutilation of the Hermae. This does not seem correct. The more usual meaning of "immunity" fits the situation very well. Both of these men admitted (And. 1, 12, 15) that they had been present at certain mock celebrations of the mysteries. Such an admission was enough to implicate them in the punishment that would come to those against whom they informed. The *ἄδεια* was then merely the immunity that was accorded them for turning state's evidence. The chief objection to this interpretation of *ἄδεια* is, however, that it limits a metic's activities as sycophant to false *μήνυσις*. It may well be that at times of great excitement, such as the Mutilation of the Hermae, many metics laid false informations. But it is inconceivable that these occasions would be numerous enough to warrant three probolae at the *κύρια ἐκκλησία*. There must have been opportunities for metics to extort money by blackmail under more normal circumstances. Melas, the head of an important club of sycophants, is called an Egyptian (Isaeus, V, 9). It may be that metics made use of club-members or hired agents where their machinations demanded the use of the courts. At any rate it is extremely unlikely that any considerable number of metics would have become liable to such procedures as probolae, if they had been compelled to ask for "permission to make accusations." Such an arrangement would have proved an invaluable check on all sycophancy.

[21] Lipsius *A. R.* 214; 448 ff. D. and S. *Dict. des Ant.* s. v.

affect the people as a whole it is assumed that "probolae against sycophants" would be used only when they were guilty of some overt act against the state, as for instance, deceiving the people by their demagoguery. Justification for this is found in Aristotle. He mentions the probole against sycophants in connection with those against any one who has deceived the people. Aeschines implies a similar interpretation.[22] He is contrasting *φήμη* and *συκοφαντία*. "We call it sycophancy when . . . a single individual slanders some one in all the assemblies and before the senate. For such acts probolae are provided."[23]

Another reference to this use of the probole, suggests this interpretation also. Pollux[24] after mentioning the probolae against those who deceived the people adds "The indictments for sycophancy were probolae also" (*προβολαὶ δὲ ἦσαν καὶ αἱ τῆς συκοφαντίας γραφαί*).

The *γραφή* to which Isocrates refers is undoubtedly the *γραφὴ συκοφαντίας* mentioned by Aristotle.[25] The circumstances under which this was employed is a matter of some uncertainty. The orators contain no undisputed references to its use. Aristogiton was condemned for sycophancy (*συκοφαντίας*), but the procedure by which he was brought to trial is not stated.[26] There is no special reason for assuming that it was not a *γραφή*. It may very well be that the probole and graphe were frequently closely connected. The probole was a means of ascertaining the sentiment of the people. If this was unfavorable to the person against whom the probole had been entered, the matter might come before a dicastery for trial. The procedure by which the case was entered in the dicastery was probably the *γραφὴ συκοφαντίας*. This is suggested by the phraseology of Pollux. "The *γραφαὶ συκοφαντίας* were probolae."[27] This seems to have been the situation in the trial and condemnation of Agoratus for

[22] Aesch. 2, 145.

[23] This definition of sycophancy implies demagoguery, rather than vexatious litigation.

[24] Pollux VIII, 46. Pollux is probably following Aristotle here.

[25] *Const. of Athens* 59, 3. The speech of Lysias *vs. Aeschines*, which was entitled by Diog. Laert. *περὶ συκοφαντίας* has been proved incorrectly named (Saupe Or. Att. II, 121.).

Cf. *Dict. des Antiq.* s. v. *γραφὴ συκοφαντίας*. Pauly-Wiss. s. v. "Seldom used. There was nothing dishonorable about sycophancy as a profession from a political standpoint."

[26] Dem. 25, 19.

[27] *Loc. cit.*

sycophancy.[28] "καὶ ἐν τῷ δήμῳ καὶ ἐν τῷ δικαστηρίῳ συκοφαντίας αὐτοῦ κατέγνωτε." The phrase ἐν τῷ δήμῳ implies that the proceedings against him began with a probole; ἐν τῷ δικαστηρίῳ indicates beyond doubt that there was a court decision.[29] If the γραφή could be used as a part of the proceedings that began with a probole, it must have been used alone also. We can therefore assume that it was used independently against offences of less flagrant nature than those for which probolae were employed.

Isocrates is the only one who mentiones the eisangelia against sycophants. The νόμος εἰσαγγελτικός quoted by Hyperides contains no reference to such a use. It may, however, be included in the first division given by Hyperides.[30] Like the probole, the eisangelia against sycophants would most naturally be employed against those offences of sycophants that affected the state.

According to Pollux, one of the uses of the φάσις was to prosecute sycophants.[31] There is reason for doubting this, since no authority of greater reliability mentions such a use. If it is true it was probably employed against those who made a business of attacking merchants and traders by bringing φάσεις against them. This would be an effort to turn their own methods back upon them. It is more probable that the statement is confused and that the φάσις which is a favorite method of attack open to sycophants, is said to be a method of attacking them.

For the protection of merchants and shipowners, who would be especially exposed to the attacks of sycophants, there was aparently a special law provided. This forbade the use of φάσις against such men unless there were good grounds for believing that the facts charged in the φάσις could be established before the court. Accordingly, against sycophants who preferred such false charges criminal information (ἔνδειξις) and summary arrest (ἀπαγωγή) could be em-

[28] Lys. 13, 65. Marchant (note on And. 1, 123) is of the opinion that the statement περὶ τοῦ σώματος . . . κινδυνεύσων refers to a proposed γραφὴ συκοφαντίας against the members of the cabal against Andocides.

[29] Commentators do not generally connect the probole and γραφὴ συκοφαντίας but it seems evident that this must have been the relation between them. Cf. Lipsius *A. R.* 451.

Those who regard the trial by which Agoratus was condemned a γραφή are of the opinion that the suit was τιμητός. Agoratus was fined 1000 drachmae. Some even infer that the death penalty might be imposed. Cf. Marchant's view about And. 1, 123.

[30] Hyp. IV, 7 ff. [31] VIII, 47 ff.

ployed. Such a provision seems to be justified by the fact that the φάσις against shipowners and merchants constituted a serious interference to commerce.[32]

Members of Clubs certainly found the organizations to which they belonged helpful in protecting them from the attacks of sycophants.

Some effective means of defeating the aims of sycophants have been mentioned above: Hiring another sycophant; leaving Athens and residing elsewhere; "fawning" on them.[33]

During the period of the Thirty, two methods were used to rid the state of sycophants. One was a direct attack upon them.[34] Such a method could come only under an oligarchy. The sycophant was in a sense a democratic institution.

The other was indirect. Certain laws, such as those that dealt with inheritance, were the cause of much litigation because of the room for misunderstanding that they offered.[35] These the Thirty annulled ὅπως μὴ ᾖ τοῖς συκοφάνταις ἔφοδος. But even such measures would be extremely unpopular with the democracy. They deprived the courts of too much power.

So far as can be seen, there were but few cases in which either the direct or indirect methods of punishing sycophants were effective. Only two references to condemnation for sycophancy are found.[36] Somewhat more numerous are the references to the fine and partial disfranchisement incurred by failure to receive at least one-fifth of the votes or by dropping a case that had been begun. But compared with the numerous instances in which sycophants engaged in litigation these are very few. This situation is exactly what one would expect to find. There was extreme difficulty in establishing a general charge of sycophancy. In fact it would be practically impossible to do so unless the sycophant's operations had in some way affected the community at large. Even then the reputation that prominent and eloquent sycophants had gained, of being the "watch dogs of the people" made conviction hard to secure.

Even when a man incurred the fines mentioned, special action was required to force him to pay and to surrender the privileges which he had forfeited. And as has been shown above such special action

[32] (Dem.) 58, 10.
[33] Vid. pp. 57, 23-24.
[34] Xen. *Hellen.* II, 3, 38; Arist. *Const. of Athens* 35, 2-3.
[35] Arist. *Const. of Athens*, 35, 2-3.
[36] Dem. 25, 19; Lys. 13, 65.

was probably only instituted by a person who had some personal interest in securing the enforcement of the law in a particular case.

A surer means of successful action against a sycophant was to bring suit against him on any sort of charge and then introduce into the accusation extraneous matters dealing with his activity as a sycophant.[37] Such a method would be more likely to affect the jurors. The scheme used by Archedemus in protecting Crito was very effective. He made it his business to hunt up matters of which he could accuse the sycophants and when one of them opened suit against Crito, Archedemus responded with a counter suit that involved the charges that he had found it possible to use against them. The account given by Xenophon of this method implies that Archedemus never failed in stopping blackmail or actual prosecution of Crito.[38]

The mere loss of a suit, even if it entailed no fine or atimia, was an effective check on a sycophant's operations. Just as the reputation of having won a suit made a sycophant more successful in blackmail, so the reputation of having lost lessened his chances of success. Euxitheus, accused of the murder of Herodes, states that the sycophants will lose their opportunities for blackmail if the jurors show their power and vote against them.[39] So also Hyperides implies that the business of sycophants' lagged after the conviction of one or two notorious ones.[40]

Elsewhere in the Greek world stringent measures were employed against sycophants. Charondas of Catana in Sicily is said to have provided by law for the public disgrace of those who were convicted of "sycophancy." They were driven about the streets with crowns of tamarisk on their heads, as a sign that they had won the "palm of ill will."[41]

In spite of the numerous methods of meeting the evil sycophancy flourished and the very fact that many different means of combatting it were necessary shows that none of them were very successful. The Athenians were in a measure reconciled to excessive and vex-

[37] This is what was done against Aristogiton and Theocrines.

[38] Xen. *Mem.* 2, 9.

[39] Ant. 5, 80.

[40] IV, 33, 36.

[41] Diod. XII, 12, 1. The remedy that is accredited to Philip of Macedon (Theopompus Fr. 107) is Aristophanic in its preposterous claim on possibility. Every one in his domain who was guilty of false testimony, perjury, professional advocacy or sycophancy was to be forced to go to a city especially prepared for such men. This place he styled Πονηρόπολις. Vid. Suidas s. v. Δούλων πόλις.

atious litigation as inevitable nuisances.[42] Distinction between the sycophant and the good informer was hard to fix. Too stringent measures against those accused or suspected of sycophancy would discourage many well-founded accusations. In the epigrammatic words of Aristophanes, "There is no charm against the sting of a sycophant."[43]

[42] Cf. Cicero *Ros. Am.* 20.
[43] Plutus 885.

# INDEX OF PASSAGES

From the orators, historians, Aristophanes and Plato.


## AESCHINES

### I

PAGE

1 ff. ..... 2, 3, 21, 22, 46
44 ..... 11
55 ..... 13
56 ..... 13
58 ..... 13
82 ..... 11
84 ..... 12, 17
85 ..... 11
86 ..... 65
93 ..... 14
99 ..... vii
107 ..... 34, 46
117 ..... 14
167 ..... 13
170 ..... 13
196 ..... 13

### II

93 ..... 47
145 ..... 91

### III

51 ..... 47

## ANDOCIDES

### I

1 ff. ..... 22
3 ..... 40
4 ..... 13
7 ..... 22
9 ..... 14
11 ..... 41
12 ..... 89
13 ..... 41
15 ..... 41, 90
17 ..... 41
27 ..... 41, 42
35 ..... 41
37 ..... 42
59 ..... 41
65 ..... 57
66 ..... 11
71 ..... 40
91 ..... 14
92 ..... 40
99 ..... 24, 40
100 ..... 40
101 ..... 14, 53
106 ..... 13, 14
117 ..... 22
121 ..... 50, 67
123 ..... 92
124 ..... 13

### II

6 ff. ..... 15

### IV

1 ..... 1
15 ..... 53
18 ..... 87

## Antiphon

### I

22 ..... 14

## Tetral.

### A

α5 ff. ..... 33

### V

8 ..... 12
11 ..... 17
16 ..... 70
17 ..... 70
34 ..... 41
59 ..... 22
60 ..... 33
74 ..... 70

78 ....23, 70
79 ....13, 22
80 ....94
90 ....12

VI

12 ff.... 4
16 ....4, 6
21 ....4, 5
23 ....4
34 ....4, 5
36 ....5
37 ....4, 5
38 ....5, 6
42 ....5, 6
43 ....vi, 6, 46
49 ....6
50 ....50

ARISTOPHANES

*Acharnians*

725 ff....20
818 ....19
819 ....26
820 ....24
829 ....25
903 ff....19
908 ....26

*Birds*

44 ....24
147 ff....71
285 ....33
1422 ....71
1432 ....25
1451 ....25

*Clouds*

207 ....9

*Ecclesiazusae*

562 ff....24

*Frogs*

362 ....26
1146 ff....25

*Knights*

259 ....vi, 46
261 ....23, 34
300 ....26
324....vi
472 ....35
529 ....20
824 ....46
838 ....71
840 ....35
1083 (sch.) ....35
1256 ....19
1345....14
1360....15

*Peace*

191 ....21
505 ....9
638 ....71
639 ....35

*Plutus*

31 ....v
819 ....28
873 ....v
885 ....95
900 ....2
908 ....28
914 ff....3
936 ....46
946....20
970 ....20

*Wasps*

101 ff....45
145 ....20
258 ....14
281 ff....13, 23
287 ....15
399 ....17
411 ....14
474 ff....14
488 ff....14
505 ....20
517 ....9
556 ff....15, 17
564 ff....15
578 ff....17
587....11, 45
620 ff....15, 17
841 ....32
847 ff....18

878 ....18
897 ....20
900 ....14
920 ....18
967 ff....15
973 ....18
1000 ff....18
1091 ff....7
1101 ff....17

ARISTOTLE
*Constitution of Athens*
7.3....8
8.2....8
9.1....1, 8
9.2....8
24.3....8
27.3....9
35.3....25, 93
39.6....88
43.2....45
43.3....90
45.2....45
48.3....45
55.2....43
55.3....44
59.3....91
61.2....45

*Politics*
1274a ....8, 9

*Rhetoric*
1 ....16

DEMOSTHENES
XIX
216 ....54

XX
13 ....13
24 ....15
34 ....15
53 ....11
76 ....13
78 ....11
98 ....14
166 ....17

XXI
4 ....11
7 ff....15
47 ....86, 87
66 ....15
83 ....15, 34
92....14
96 ....14
99 ....15
103 ff....39, 49, 86
112 ....53, 54
114 ....49
117 ....49
139 ....54
141 ....22
154 ....13
160 ....14
182 ....39
186 ....15
193 ....14
197 ....14
209 ....15
213 ....15
223 ff....9, 14
226 ....11

XXII
....52
4 ....22
26 ff....87
46 ....14
96 ff....14

XXIII
1 ....12, 21
5 ....12
20 ....13
65 ....11
80 ....87
100 ....15
206 ....22

XXIV
....52
1 ....22
2 ....14
3 ....52, 87
6 ....22
14 ....52
37 ....14
57 ....14
66 ....52
73 ....14
76 ....14

78 ....14
87 ....14
90 ....14, 15
92 ....11
105 ....39
123 ....39
127 ....13
136 ff....13
151 ....12
154 ....14
158 ....52
159 ....13
164 ....14
166 ....39
173 ff....45
200 ff....13, 52

XXV

4 ....39
8 ff....79
11 ....80
14 ....81
19 ....12, 80, 91, 93
30 ....39, 45
32 ....13
36 ....81
37 ....46, 51, 79
38 ....81
40 ....79, 81
47 ....38, 80
49 ff....81
52 ....79
54 ff....13, 82
60 ff....82
64 ff....79, 82
67 ....82
68 ....80
76 ....13
78 ....28, 40, 83
79 ff....13
83 ff....15

XXVI

1 ff....45
9 ....87
11 ....51

XXVII

1 ....12
53 ....15
68 ....15

XXVIII

1 ....39

XXIX

28 ....54

XXX

1 ....22

XXXII

4 ....65
5 ....66
8 ....66
10 ff....56, 60, 65, 66
21 ff....14
24 ....66
26 ....66
27 ....13

XXXIV

1 ....22
38 ....13

XXXV

51 ....26
54 ....14
56 ....15

XXXVI

8 ....13
36 ff....13
42 ff....13
57 ff....15

XXXVII

33 ....13
37 ....13
38 ff....13, 60, 64
45 ....27
48 ....15, 64
52 ....13

XXXVIII

19 ff....15, 27
25 ....13
27 ....15

XXXIX

1 ....22
2 ....60, 61
3 ....32
4 ff....61

13 .....60
14 .....14, 28, 40
16 ff.....13
18 .....63
27 .....13
32 ff.....63
35 .....15
37 ff.....61, 62
57 .....13

XL

3 .....62
5 .....13, 22
8 ff.....60
9 .....11
11 .....11, 61
12 .....22
14 .....62
16 .....22
17 ff.....62
28 .....61, 63
32 .....22, 47, 63
38 .....13
43 .....22
50 .....12
53 .....22
55 .....14
57 .....12, 67
58 .....13, 63
59 .....12, 67
61 ff.....12

XLIII

71 .....27

XLIV

3 .....53

XLV

1 .....12
6 .....12
47 .....13
57 ff.....56
63 .....13, 58
64 .....56, 58
66 .....13, 15
77 .....13
85 .....13, 14

XLVI

26 .....53

LIII

1 '.....21, 28, 30, 39, 48
14 .....39, 55
26 ff.....29

LVI

6 .....26
47 .....15

LVII

34 .....vii

LVIII

4 .....64
5 .....83, 84
6 .....26, 34, 86, 87
7 .....60, 64
8 .....26, 34
10 .....39, 93
12 .....26, 36, 84
13 .....26, 36, 85
19 .....55
22 ff.....83, 84
27 .....85
28 ff.....84
32 .....35, 36, 83
34 ff.....83, 84
36 .....51
39 ff.....64, 67, 68, 85
42 .....64, 84
43 .....84, 87
45 .....40, 83
48 .....39

LIX

9 ff.....50
16 .....31
52 .....32

DINARCHUS

.....78
1 .....79, 83
2 .....82
4 .....83
8 .....79, 82
9 .....82
10 .....82
12 .....80
13 .....81
15 .....79
17 .....44

DIODORUS SICULUS

XI, 87, 5 ..... 7
XII, 12, 1 ..... 94

HYPERIDES

I

Frag. II ..... 12
2 ..... 35
8 ..... 18
12 ..... 38

III

23 ..... 14
32 ff. ..... 15
35 ..... 15

IV

7 ..... 92
31 ..... 13
32 ..... 13
33 ..... 14, 31, 94
35 ..... 27, 29
36 ..... 14, 94
38 ..... 14

ISAEUS

III

46 ff. ..... 37

V

7–9 ..... 47, 63, 64, 90
8 ..... 60
40 ..... 47, 63, 64

ISOCRATES

VII

54 ..... 15

VIII

130 ..... 15

XV

8 ..... 23, 33
24 ..... vii, 34
25 ..... 34
33 ..... 33
142 ..... 16
160 ..... 15, 34
241 ..... 64
313–314 ..... 89
316–318 ..... 24, 72

XVI

..... 44
1 ff. ..... 47

XVII

..... 58
1 ..... 22
4 ..... 56
23 ..... 56
33 ..... 56
34 ..... 56
42 ..... 26, 27

XVIII

1 ff. ..... 75, 88, 89
3 ..... 76
5 ..... 76
7–10 ..... 37, 57, 77, 89
11 ..... 55, 65
12 ..... 55, 65, 78
48 ff. ..... 76
52 ..... 47, 78
53 ff. ..... 78

XX

15 ..... 33

XXI

5 ..... vii, 33

LYCURGUS

*c. Leoc.*

3 ..... 25
4 ..... 1, 3
6 ..... 1, 21
46 ..... 12
52 ..... 12
79 ..... 14
90 ..... 38
91 ..... 14
110 ..... 14
119 ..... 14
127 ..... 14
134 ff. ..... 15
138 ..... 53
139 ..... 13, 14
149 ..... 2
150 ..... 15

LYSIAS

I

36 ..... 9
43 ..... 33

III

..... 47
20 ..... 33

VI

9 ..... 40
33 ..... 40
42 ..... 40
54 ..... 11

VII

1 ..... 22

X

16 ..... 8

XII

2 ..... 21
3 ..... 21, 22
62 ..... 13

XIII

5 ff. ..... 74
8–12 ..... 74
18 ..... 74
19 ..... 66
22 ..... 74
29 ..... 75
30 ..... 75
32 ..... 74
34 ..... 75
38 ..... 75
64 ..... 73
65 ..... 31, 73, 92, 93
70 ff. ..... 73
76 ff. ..... 73, 75

XVI

9 ..... 44
12 ..... 13
17 ..... 13, 44
31 ..... 44

XVII

1 ..... 22

XVIII

1 ..... 29
9 ..... 23
14 ..... 87
19 ..... 30

XIX

9 ..... 30
11 ..... 15, 29
51 ..... 30
55 ..... 22
64 ..... 30

XXIV

1 ..... 44
17 ..... 34
19 ..... 67

XXV

3 ..... vii, 32, 34
7 ..... 14
13 ..... 13
19 ..... 24, 72

XXVI

8 ff. ..... 44
9 ..... 45
16 ff. ..... 44

XXVIII

1 ..... 29
3 ..... 15

XXIX

1 ..... 29
6 ..... 53
8 ..... 29

XXX

5 ..... 45

XXXI

1 ff. ..... 21, 44

XXXII

1 ff. ..... 22

PLATO

*Apology*

17BC ..... 22
20 DE ..... 12

21A ....14
27B ....12
28A ....16
34C-E ....15
36B ....87

*Crito*

44E ....56
45A ....36
45B ....40
45C ....56
45E ....40

*Euthydemus*

290A ....13

*Gorgias*

515E .... 9

*Laws*

730D ....2, 3
745A ....28
767C-E....16
768A .... 2
876AB ....16
928BC ....28
937A ....12
938B ....14
949A ....15

*Republic*

340D (sch.) ....v

PLUTARCH

*Alcibiades*

20 ....43

*De Curiositate*

523 ....v

*De Exilio*

11 ....24

*Pericles*

9 .... 9

*Phocion*

10 ....79, 82

*Solon*

18 .... 1, 8
24 ....v, 28

*Timoleon*

37 ....10

THEOPOMPUS

Frag. 107....viii, 94

THUCYDIDES

II, 40....1, 25

XENOPHON

*Apology*

4 ....16
14 ....12

*Hellenica*

I, 7, 2....57
II, 3, 12....24, 25, 88
II, 3, 38....25, 93

*Memorabilia*

II, 9, 4....49, 56, 57, 94
IV, 2, 35....34
IV, 4, 11....viii, 54

*Politeia*

I, 14....16, 69
I, 15....69
I, 16....9, 68, 69
I, 17....69
I, 18....10, 69
III, 1....68
III, 1-6.... 9
III, 2....70

*Symposium*

IV, 30....24, 34

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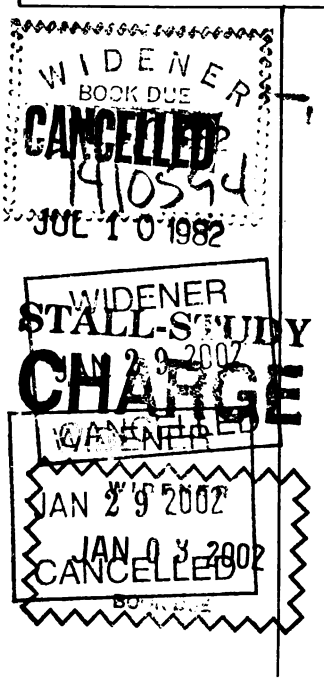
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